A

HISTORY OF THE TRIAL

OF

CASTNER HANWAY AND OTHERS,

FOR

TREASON,

AT

PHILADELPHIA IN NOVEMBER, 1851.

WITH AN INTRODUCTION UPON

THE HISTORY OF THE SLAVE QUESTION.

BY

A MEMBER OF THE PHILADELPHIA BAR.

PHILADELPHIA:
URIAH HUNT & SONS, No. 44 NORTH FOURTH STREETS.
1852.

MERRIHEW AND THOMPSON, PRINTERS.

PREFACE.

THE following pages contain a short history of the late Christiana Treason Trials. During their progress a phonographic report of all the proceedings was taken and printed, by order of the Court, for the use of the Judges and Counsel employed in the cause. For this a copy right was secured, and proposals issued for publishing it in full. Though more than six months have elapsed, this has not yet been done, and the only account of the transactions to which the public have access, is contained in the daily papers of New York and Philadelphia. This pamphlet has been prepared to supply the deficiency.

The sources of information used in compiling it, have been the phonographic report already referred to; a transcript of the docket of Alderman Reigart of Lancaster; a transcript of the docket of E. D. Ingraham, Esquire, Commissioner of the U. S., resident in Philadelphia; the records of the Philadelphia County Prison; the records of the Circuit and District Courts; and the files of the Evening Bulletin. Where these have not furnished a connected story, the deficiency has been supplied from the writer's own recollection, or that of his friends, who attended upon or participated in the trial.

Some of the most glaring absurdities and incongruities contained in Mr. Brent's pamphlet, which he calls "A Report to his Excellency Governor Lowe in relation to the Christiana Treason Trials," have been pointed out. The very limited circulation of this work, confined, we believe, to a few who received copies as a personal favor, would render any notice of it unnecessary, had it not been published in a measure by the authority of the State, whose imaginary wrongs its author has, by these means, sought to vindicate. The almost scurrilous terms in which it denounces the majority of the citizens of Philadelphia, the people of Pennsylvania, the officers of the Court in which the trials were held, the Judges who presided, and, in short, every one connected with the case, except counsel and the witnesses for the prosecution, are conclusive evidence of more anxiety to emit spleen and mortification, than to subserve the purposes of truth and justice.

A popular, not a professional view of the subject has been attempted. It is amongst the body of the people that false reports have been spread, and to the people this statement is addressed, in hopes that it may tend to correct the evil.

In accordance with the wish of the publishers, a brief introduction has been prefixed, embracing a connected view of all the many attempts which have been made, at various periods to settle, by Congressional legislation, the embarrassing question of slavery. The main object is to show the views entertained upon the subject by the great statesmen who framed the Constitution, and watched over its first developments; and accordingly much more space has been devoted to that early legislation, than to measures which are still fresh in the recollection of those whom we address. The essay is thought to be appropriate in this connection, because the late great Compromise, of which these trials are one of the earliest fruits, is the legitimate consequence of long antecedent measures, and cannot be fully understood or appreciated without bestowing much previous study upon our early political history. The sources from which this introduction has been compiled are strictly original, consisting, as far as possible, of official or semi-official documents and reports.

SLAVERY AS A NATIONAL QUESTION.

The following brief essay is not intended to be an argumentative discussion of the subject upon which it treats. Discussions of that sort have abounded so much of late years, that there would be much more presumption than wisdom in any attempt to increase the number. But perhaps it may be matter of interest, now that the conflict has been going on for more than sixty years, to know something of its earlier phases, of its varied successes, and of the deeds done and the words spoken by those who fought the same battle long ago in the infancy of the republic. The region of historical research which we are about to explore, appears to be almost a *terra incognita* to the majority of the fiery debaters who now-a-days are prosecuting this wordy war; or if they occasionally plunge into it for a moment, it is only to hurry back in premature triumph, dragging captive some unhappy straggling passage of Jefferson or Jay, to serve as a bone of contention for a whole generation of self-constituted agitators in and out of Congress. Now if the object is merely to perpetuate the agitation, the course pursued is unquestionably a wise one; for, short as our national history is, the stock of facts which it supplies us with upon the subject is assuredly large enough, if used with but a tithe of the economy heretofore exhibited, to last till the Union and Time itself shall be no more. But there are some quiet spirits still left who get weary of this hopeless strife, and who can scarcely afford to adopt the advice of the Scotch clergyman—to wait for rest till they get to heaven; who cannot help calling out, "Peace, peace," however discordant the answer may be; and who, if they needs must fight, would be glad to know what they're fighting about, fight in earnest and be done with it. To answer, then, at least one of these questions, and suggest to this rapidly increasing class precisely what the present phase of the battle is, and what hopes there are of final peace, this brief historical sketch is

attempted. The purpose is not, we repeat it, to discuss the subject; the author aims not at the dignity of a disputant; he is more than satisfied with the humbler task of supplying materials for those who do,—in hopes that if rage and anger have hitherto filled the place of armorers in our battle-field, history may in future discharge the duty a little more creditably. It is proposed, then, to trace the slavery question at length, so far as it has been the source of national difficulties, embarrassments and legislation, with especial reference to its earlier history, and to the clause in the Constitution respecting fugitives, which has lately been made the subject of Congressional action.

It will not be necessary to extend our inquiries to any period anterior to the revolution, or in any way to examine the peculiar causes which first established and have long perpetuated slavery amongst us. Prior to that event, it was of course a question between Great Britain and her colonies, and nice casuistry might perhaps be needed to determine the relative amount of guilt chargeable on each of the two parties. The moral value, too, of a solemn judicial decision, "that no slave could breathe the air or stand on the free soil of England," may be a little questioned, when it is remembered that such property would of necessity be almost worthless in her climate; and that at the very moment when a reluctant Judge pronounced these boasted words, her capitalists were rolling in wealth that grew out of the sweat on negro brows in her American plantations. We have heard of high bred Southern families in which a thousand out-door slaves are never suffered to pollute the pure air of the saloons and chambers that their masters breathe, or tread the rich carpets that their toil has paid for. The custom is undoubtedly refined and agreeable, but we never heard that it boasted to rest on higher grounds than ordinary mortals venture on.

At the time of the declaration of independence, when the colonies escaped from their long pupilage, and, with new rights and new responsibilities, set out to act an independent part among the nations of the earth, the taint of slavery was upon every one of them; in every one, the soil was tilled by negro bondmen. The laws regulating the relations between master and slave, were, it is true, widely different in the different States; in some, as in Connecticut, the privileges annexed to the condition were

so wide and the facility of rising from it so great, that the constitutional euphemism which is now-a-days so boldly metaphorical, might with every propriety style them "persons held to service or labor;" in others, they were then, as now, a hopelessly degraded class, whose happiness depended entirely on the arbitrary will of their masters. Of course it is not intended to represent that the various States were equally interested in the institution. Varieties of soil, climate and social habits, had drawn the great mass of this population to what are now known as the Southern States. At the time of the Declaration, no authentic enumeration had been made; but when the first census was taken in 1791, the total number of slaves in what are now known as the Northern States, was 40,370; in the Southern, 653,910. At the earlier period of which we are now speaking, the disproportion was probably less striking, but sufficiently great to make the interests of the two sections totally opposite. The difference, however, did not depend merely upon the amount of capital invested. The feeling in the North, both moral and political, was decidedly and in many cases bitterly hostile to slavery. The most shortsighted, therefore, could not fail to foresee the speedy adoption of those measures which ultimately provided for general emancipation. Even in Virginia and Maryland, not then considered as Southern States, ardent advocates were found to plead the cause of liberty, and organized action had more than once been attempted in its behalf. Below the Virginia line, in the Carolinas and Georgia, an abolitionist was as rare a phenomenon then as he would be now; those States were yet but thinly settled, a great part of their lands unreclaimed, and no prospect of improvement appeared, except in the extensive employment of slave labor, adapted both to the climate and the character of the already established settlers.

Such was, briefly, the position of the two parties at the opening of our independent history; and such it was, also, when the Federal Convention met at Philadelphia in 1787, to frame the present Constitution. The question presented itself to this body in a threefold aspect—*First*, as to the influence which an enslaved race was entitled to exercise in the government; *secondly*, as to their further increase by importation; *thirdly*, as to

how far Congress and the Constitution were bound to provide for the security of this sort of property.

The first of these was rightly regarded at the time, as by far the most important, not only because of the magnitude of the interests directly involved in its decision, but still more so, because of the principles which, though scarcely remembered at present, were undoubtedly the basis of the Compromise, in which the deliberations of the convention resulted. A moment's reference to the slave census, referred to above, will show how great was the contrariety of interests involved, and give a tolerably correct idea of the influences by which the various States were governed in discussing the subject. For whatever pleasure it might give us to conceal the humiliating fact, candor will compel us to acknowledge, that even in those heroic times of our history, interest seldom gave way to any nobler feeling when a question like this was to be determined. The original claim set up by the South but abandoned upon the final vote—except by South Carolina, Georgia, and Delaware—was that the black population should be as largely represented in Congress, as the white. It is impossible to give anything but a very brief outline of the arguments used upon both sides. Without venturing to insist upon the obvious absurdity, that an enslaved and helpless race were really entitled to representation because of any rights *they* themselves might have to defend or duties which they might be bound to discharge, the Southern members took the position, not regarded at that time as utterly heterodox, that a State is entitled to be represented, not merely because of its containing so many human beings, but because so many human beings are in reality only the exponent of so much wealth or so much power contributed by such State to the support of the general government. The federal value of the State is in direct proportion to the amount of this power, and what difference could it make whether it emanated as in the South from a race called slaves, supported at the direct expense of their masters, who supplied them liberally with all the necessaries of life; or as in the North, from a population occupying precisely the same relative position in the social scale, performing labor of the same description, maintained, though in a somewhat different way by the same capitalist, and called Freeman—if one were entitled to representation, why

not the other? The negro population was as essentially a producing power and as original an element of wealth as any body of free laborers could be, and therefore as fully entitled to have their interests consulted in the proceedings of a Government instituted for the express purpose of providing for the security of property. But in addition to this, they were entitled to make this claim not only as producers, but also as consumers of those foreign productions, the importation of which would form one great element of wealth in the Eastern States.

The fallacy of this reasoning, specious as it might seem, was warmly commented on and exposed by the opposite side. If the Southern slave was to be regarded as any other human being, and as possessed of those inalienable rights which the Declaration of Independence proudly claimed for all humanity, why not at once call him a citizen and give him the right to be represented, not by his master, but by himself? If he was nothing but property, why not speak out openly and attempt to make property the basis of representation, and the Government a tool in the hands of a moneyed aristocracy? It was conceded that the slaveholding States were at that time by far the wealthiest part of the confederacy, but this wealth of slavery was not and could not be an element of power, but rather of weakness and confusion. If it was argued that slaves filled, in the South, the same relative position as free laborers in the North, and their employment necessarily excluded to a great extent the introduction of a population which would otherwise be entitled to representation, then in the same way free and active *mind*, the only thing that deserves to be represented, was likewise excluded. But on a similar principle, the horses, cattle, and even the machinery of the North, which was nothing but a substitute for so much manual labor, were equally entitled to be heard on the floor of Congress. Why should property in one form go to Congress, and be shut out when it takes another and more human one? "The houses in Philadelphia alone," said Gouverneur Morris, "are worth all the wretched slaves that cover the rice swamps of South Carolina." He ridiculed the idea of treating the Southern slave as a consumer—"for the Bohea tea used by a Northern Freeman will pay more tax than the whole consumption of the miserable slave,

which consists of nothing more than his physical subsistence, and the rag which covers his nakedness."

As a last resort, however, the Carolinas had an argument ready which defied all ingenuity, learning, or statesmanship to answer, and which has so often proved potential in after discussions. "North Carolina would never confederate on any terms that did not rate the black population at least at three-fifths." Connecticut generosity immediately interposed to prevent so disastrous a result, and after another fruitless effort to obtain an equality of representation, as some of the members rather metaphorically termed it, for the luckless slaves, the clause as it now stands was adopted by an almost unanimous vote. Thus was established the second great compromise of the Constitution. It is in vain to support it now upon the grounds which its friends originally occupied. Truer views of the real origin and real ends of Government, have forever exploded amongst us the notion, that property can in any way with justice be made an element of representation; and that article in the Constitution stands now solely upon any merit which it may have acquired as a necessary concession to reconcile clashing interests; and it will probably hold its place as long as slavery exists, upon the simple ground so tersely laid down at the close of the discussion—that North Carolina would never have confederated without it.

The course of the debate had, however, clearly shown that the slavery question was at best nothing but the stalking horse behind which deeper influences moved; that though the battle cry on one side might be the rights of man, and on the other the rights of the master, yet the battle cry in this, as in many other cases, hinted but remotely at the real grounds of the war. The slaveholding States were at that time the richest part of the Union, but their wealth arose exclusively from agriculture, and their interests of course centered in this, and in the exportation of their products. The Eastern and Middle States, though then comparatively poor, were clearly destined to be the commercial power of the Union, though the extent of that commerce and the enormous wealth of which it has been the source, was then little dreamed of. The great West was as yet a power unknown, and scarcely foreseen even by the most sagacious statesmen.

The object of the South, therefore, was to increase their productive power, to give it as great an influence as possible in the affairs of the country, to leave commerce unfettered, and especially to exempt exports from the payment of duties. That of the North, on the other hand, was to give Congress such large powers in the regulation of commerce, as might be employed in the protection of their infant marine against foreign competition; and to diminish the duties on imports. In short it was merely a question as to which should be the predominating interest—whether the South should be a huge plantation to be drained of its wealth by the merchant princes of the North, or whether the northern cities should be nothing but the trading depots of Southern nabobs. The representation of slaves, the chief productive element of Southern wealth, was selected as the test question, and the powers of both parties were developed to the uttermost in debating it. In the end, the North gained the commercial privileges upon which it had insisted, the South three-fifths of the anomalous representation which they demanded, together with the exemption of exports from taxation. The overwhelming power and wealth which the North have since acquired, and which must certainly be in some measure attributed to this early policy, sufficiently proves that they made an excellent "bargain" as one of their members termed it; the *morality* of the arrangement we do not propose to discuss, but certainly while that compromise, be it good or bad, remains in the Constitution, the interested work of both parties, it would require the nicest casuistry to determine which of them is entitled to indulge in any special self-glorification in the premises.

The second question above stated, acquired great additional importance from the mode in which the first had been determined; though minor and more local interests prevailed to alter the arrangement of the contending forces. The whole of the middle and Eastern States were of course, both from principle and policy, opposed to the perpetuation of the slave trade. They had everything to lose and nothing to gain by it. If this population must needs be represented on the floor of Congress, certainly their next object was to reduce it to the smallest numbers possible. But in addition to these very obvious interests, Virginia and Maryland had other and private reasons for wishing

to abolish a trade which, as their lands were already overloaded by this unhappy race, could be of no possible service to them, while to some extent it must deprive them of the ever-extending southern market, into which their surplus, "annually arising and renewing," might be profitably disgorged. Virginia philanthropy was therefore earnest to put an end to so nefarious a traffic, and its ruinously debilitating and demoralizing effects were vividly depicted by her talented delegates. South Carolina and Georgia, whose original swamps were yet unredeemed from their primeval worthlessness and desolation, and all whose hopes of future greatness, both political and agricultural, depended on the increase of this very available population, were sadly dismayed at the dismal prospect thus suddenly and unfeelingly opened before them by the desertion of their late allies. In vain they sought to discover, and no wonder the problem puzzled them, why it should be a damning crime to buy prisoners of war on the banks of the Niger, but a very laudable and eminently patriotic course to buy black children and mulattoes bred for the purpose on the banks of the Potomac.

We would not, however, represent that this question was debated by all the Northern members with such exclusively interested views as marked their treatment of the preceding one. Many of them were really alive to the horrors of a trade which the whole civilized world was beginning to look upon with detestation, and they protested vehemently against its toleration under a new and republican government. But South Carolina was by this time thoroughly versed in that omnipotent logic which has tied up so many Gordian knots from that time to this. "Religion and humanity," said Rutledge, "have nothing to do with the question. Interest alone is the governing principle with nations. The true question at present is, whether the Southern States shall or shall not be parties to the Union." "South Carolina," said Cotesworth Pinckney, "can never receive the plan if it prohibits the slave trade:" and "Georgia," echoed Baldwin, "will never become a member of the Union, if forbidden to import slaves." Ellsworth, from Connecticut, forthwith took the alarm—"was afraid of losing two States, while such others as might be disposed to stand aloof, would fly into a variety of shapes and directions, and most probably into several confe-

deracies, not without bloodshed." This singular imaginary spectacle of States *flying into a variety of shapes*, which has rambled through the brains of successive generations, till the genius of the last great compromiser exalted it into the sublime metaphor of erratic planets rushing madly from their spheres, of course settled the question at once, and the slave trade was tolerated till 1808, under the harmless euphemism of the migration and importation of such persons as any of the then existing States might think proper to admit.

Whether the controversial resources of the Convention were by this time exhausted, or whether revolutionary sagacity failed to discover any new danger to the Union in a clause that in more modern times has proved a mine of most combustible perils; or whether, as is most likely, the members saw that the political interests of the two great sections were in no way staked upon the decision; certain it is, that when, late in the summer, Mr. Butler suggested the restoration of fugitives from labor as an amendment to the article providing for the delivering up of criminals, the only objection offered was that the two clauses seemed somewhat incongruous. The proposal was withdrawn for the moment and submitted a few days afterwards by the same gentleman and C. Pinckney. It was at once agreed to without debate. It is somewhat singular that so many complaints should have been made of the inadequacy of a provision thus expressly fashioned by the party it was intended to benefit, and which is in reality more stringent than the one which, had it not been for the Northern members, would originally have been adopted.

The Convention adjourned about the middle of September, and the members betook themselves to their respective homes—most of them to defend in their State conventions the great work which they had completed. It would be a tedious, and is happily an unnecessary task, to trace the Constitution through the many ordeals it had to pass, ere a final ratification was obtained. The arguments used both by the friends and opponents of the compromises, were the same as those already sketched. Suffice it to say that while the toleration of the slave trade and the apportionment of representatives, met with serious opposition in all the Northern States; yet so far as there are any reports of the debates, there does not appear to have been a word said either

for or against the clause relating to the restoration of fugitives, except in Virginia and the two Carolinas, where it was enumerated among the victories gained for the *South*, and spoken of in terms of high approval. Generally, however, it was passed over without the slightest comment.

Such, then, were, upon this subject, the materials of controversy bequeathed to posterity by the framers of the Constitution —harmless enough, it would seem, and not easily tortured out of their quiescent state; but in the gradual change of times and parties, and magnified, too, by sectional interests and passions, found amply sufficient for the political wranglers of three generations, and gifted with a vitality and obstinacy that survive unchanged the conflicts of sixty years—neither broken by the blows nor mollified by the compromising caresses of whole hosts of eloquent statesmen.

The jubilee that hailed the birth of the new government was scarcely over, ere its friends, in their eagerness to push the advantages already gained, and its enemies, in the hope of retrieving their defeat, found means to rouse into new life the scarce quieted troubles of the Convention. The relative importance, however, of the slavery questions, was already beginning to change. The provision apportioning representatives and direct taxes, was so carefully worded and had been so anxiously debated both in the Federal and State Conventions, that no flaw could be found to hang a doubtful construction on, and little hope could be entertained of overturning that which had been so deliberately and so recently agreed upon as in some measure the corner-stone of the structure upon which all the nation's hopes depended. It was rather the toleration of the slave trade which at this early period stung the consciences or clashed with the interests of a portion of the members. In the first session of the first Congress, when the tariff bill was under discussion, Parker, a delegate from *Virginia*, first rekindled the wordy war, by moving to insert a clause imposing a duty of ten dollars a head, which was allowed by the Constitution, upon every slave imported. The question seems to have been debated, like its countless progeny, with abundant warmth. Mr. Smith, of South Carolina, informed the House that "no topic had yet been introduced so important to South Carolina and the welfare of the Union." Jackson,

from Georgia, one of the most indefatigable debaters of his day, and a man of very considerable abilities, attacked Virginia with especial bitterness for her interested and hypocritical philanthropy. But perhaps the most remarkable, as it certainly was the most able speech delivered on the subject, was that of Madison in support of the measure. As his opinions are known to have coincided with those of Washington, Jefferson, and Patrick Henry, they may be fairly taken as expounding the sense of Revolutionary Virginia on the great interests of slavery. "By expressing," said he, a national disapprobation of that trade, it is to be hoped we may destroy it, and so save ourselves from reproaches, *and our posterity from the imbecility ever attendant upon a country filled with slaves.* This is as much the interest of South Carolina and Georgia as of any other States. Every addition they receive to the number of their slaves tends to weakness, and renders them incapable of self-defence. In case of hostilities with foreign nations, their slave population will be the means, not of repelling invasion, but of inviting attack. It is the duty of the general government to protect every part of the Union against danger as well internal as external. Everything, therefore, which tends to increase this danger, is a proper subject for the consideration of those charged with the general administration of the government." Parker finally withdrew his motion, intending, however, to make it the subject of a separate bill. The chief reason assigned for this course was, the unwillingness of many of the members to vote for a clause by which they might seem, however indirectly, to sanction the idea that human beings were to be treated like goods and chattels, and to be classed with and legislated upon as such.

No member, however, was found disposed to moot the question so late in the session, and it slept quietly till March of the following year, when it presented itself in a new and much more troublesome form. The interests of humanity involved in the abolition of slavery, had not been left altogether to the mercy of politicians and political expediency. At a much earlier period, philanthrophic and religious organizations had been established with a view to expedite a result so consonant with the aims of humanity and justice. Among these, the Society of Friends had especially distinguished itself, and some of its more active mem-

bers now resolved to seize the fortunate occasion, offered by the establishment of a new and vigorous government, to direct, if possible, some of its wholesome energies to the attainment of their great object. The Yearly Meetings of Pennsylvania and Delaware, accordingly united in a petition, praying Congress to abolish the slave trade. The phraseology of the petition was a little ambiguous, making it doubtful whether it really prayed an immediate abolition, or only that Congress should use whatever power they might possess under the Constitution, to discourage the hateful traffic. Viewed in the latter light, the prayer was undoubtedly a most proper one; and even if the former be its true construction, the petitioners only shared an error common to some of the first statesmen of the day—that of over estimating the powers of a newly constituted and untried government. But whatever was its true meaning, the petition broke like a thunderbolt over the heads of the irritable congressmen. The debate exceeded in violence anything that had yet been heard. The Quakers who had ventured to appear in the gallery to countenance their unlucky petition, were encountered with scoffing and personal abuse. Jackson renewed his former threats; the hall rang with cries of dissolution; falling columns, torn flags, blood-stained battle fields, and all the dread imagery that seems to be stereotyped in some imperishable material, was paraded with frightful significancy before the startled audience. On the following day, however, to which the debate had been adjourned, the Friends appeared with a formidable auxiliary indeed. Next to Washington, no man was regarded in those days with more general veneration, than the sage and statesman, Franklin. As early as 1787, this great and good man had been chosen first President of a "Society for promoting the abolition of slavery, for the relief of free negroes unlawfully held in bondage, and for improving the condition of the African race"—a society which deserves especial mention here, as one of the latest acts of its useful and honorable career, has been to support the defence in the Treason trials, to a history of which this brief essay is intended as a preface. A petition of the same nature, as that of the Yearly Meetings, was presented from this Society and signed by Franklin—this being perhaps the last official act of a strangely varied life, in the whole course of which it would be difficult to

point out a single step taken unadvisedly, or a word uttered which the speaker would afterwards have wished to retract. After a long recital, the memorial concluded, by praying "that Congress would promote mercy and justice towards this distressed race; and step to the very verge of the power vested in them, for discouraging every species of traffic in the persons of our fellow men."

It would be difficult for any but a congressman, looking at this paper now, to find in it the materials for excited debate, or, at any rate, for violent invectives against the impertinence of its framers. It certainly does not arrogate the privilege of judging or even suggesting the course which it behoved Congress to take. With mingled modesty and confidence, it is left to more deliberate counsels to determine what may be and what ought to be done, the petitioners only imploring, for the sake of humanity, religion, and consistency, that all which could be done, should be done. If such was the spirit that offered it, that which received it was widely different. The debate of the previous day was renewed with additional violence—policy, interest, the Constitution, the Declaration of Independence, history, antiquity, justice, religion, and the Bible, were as usual confidently invoked to the support of both sides. The house was divided much in the same way as the Convention had been on the same subject. But the debate is entitled to particular notice, as opening for the first time the constitutional question which for many years agitated both houses, as to how far Congress could be considered as true to its duty in refusing to listen to and to commit any memorial whatever, not flatly absurd and extravagant—no matter how certain might be the fate which in committee it was doomed to meet. The negative was earnestly insisted upon by Madison and Paige from Virginia, and the petition was finally committed by a vote of forty-three to eleven. After a month's deliberation the committee produced an elaborate report, submitting that Congress had no power to abolish the slave trade till 1808, though they might regulate the manner in which it was conducted, and impose the tax of ten dollars if they saw fit; that they had no power to emancipate the slaves already held in the various States, nor to interfere with the domestic legislation by which the several State legislatures might see fit to govern or educate this

species of property; but that they had the power to prohibit citizens of the United States from supplying foreign countries with slaves, and to forbid foreigners fitting out slave ships in our ports; and finally that they would exercise all the authority they had to promote the views presented by the memorialists.

Our limits will not permit us to give even an abstract of the arguments, thinly scattered through six days of congressional declamation, upon this memorable report. The speakers readily divided themselves into the three parties which have ever since been maintained, whenever a similar question has arisen in either house—the earnest and uncompromising opponents of slavery; its equally zealous defenders; and a third party, which from that day to this has uniformly stood between the two, with temporising, soothing, and compromising measures, promising peace, but sowing the seeds of future war, quieting the temper but not satisfying the understanding, sweet to the mouth but bitter to the belly. Jackson and Smith, after deprecating the question altogether as unconstitutional and uncalled for, finally took bolder ground than any they had yet assumed, insisting on the justice and necessity of their favorite institution; on the happy condition of the Southern slave, as compared with the laborers of Europe, and the lower classes of the North; that slavery, sanctioned by the example of every illustrious nation of ancient and modern times, looked for its original to the will of God himself; that this unnecessary measure bade fair to plunge the Union into confusion; that the South was prepared to defend, and would defend their property against every aggression; that if the compromises of the Constitution were not to be respected, the Union, which had been cemented by them must at once and forever be dissolved.

The opposite side was supported mainly by Virginia, Delaware, and Pennsylvania; but the only speech of interest on their side, was that of Scott, from the last named State, who labored, with no little ingenuity, to prove that Congress were in no wise bound to inactivity by the clause in question; that, as the arbiters of commerce, the framers of naturalization laws, and the punishers of piracy, they could in many ways not only control, but if they saw fit, at once abolish the traffic, in spite of this ambiguous and disgraceful restriction.

There was not, and there could not be, anything original in the views of the third party, except perhaps that their most earnest advocate, Baldwin, came from Georgia.

This famous debate, the parent of a countless offspring, resulted in a compromise, recommended as "the most conciliatory, and the best adapted to the present situation of things." It consisted in carefully striking out of the report every clause to which any body could frame a serious objection, and entering the rest on the Journal without taking any final action on it. The report as entered, asserted the power of Congress to regulate the slave-trade, so far as to secure the humane treatment of the slaves during their passage, to prohibit foreigners from fitting out slave ships in our ports, and our citizens from supplying foreign States with this commodity; but disclaiming all right to interfere further before 1808, or to exercise any authority in the emancipation of slaves already in bondage, or in the amelioration of their condition. No intimation was made as to how they might choose to exercise the powers thus claimed. The influence which this result has had upon all after times, singularly confirms a prediction made by Scott, in the course of the speech already referred to—"that what was said, and more particularly what was done in Congress, at that time, would in some degree form the political character of America on the subject of slavery." In fact, congressional legislation has never departed from the standard here established. All attempts to make this really a national question, have been uniformly employed for the mere purposes of temporary agitation, and have as uniformly ended in a compromise between a doubting majority and a resolute and unflinching minority.

A question of much more practical importance at the present day, and on which it would be extremely interesting to know the views expressed by the sages who watched over the infancy of the Republic, must have arisen in the House shortly afterwards. North Carolina had ceded a portion of her enormous but unsettled territory to the General Government, on the express condition, however, that Congress should do nothing towards emancipating the slaves already to be found there. No report, however, of the debate upon the bill has been preserved.

For some time after this, all agitation of the subject was care-

fully avoided. Petitions were occasionally received from Abolition Societies in New York and Pennsylvania, praying Congress to put to some practical use the powers which, by the report entered on the Journal of the House, they had declared themselves possessed of. Some were referred to committees which never reported, others suffered to sleep quietly on the table of the House, and one from Warner Mifflin, a well-known Delaware Friend, escaped the obscurity in which its fellows were forgotten, only to be returned to him with an abusive speech from North Carolina, which nobody thought it worth while to answer.

But, during the second session of the Second Congress, the highly important act was quietly passed, which from that time till 1850 regulated the return of fugitives from justice and labor. The Governor of Virginia, acting under the advice of counsel, had refused to deliver up a fugitive criminal to the Executive of Pennsylvania, conceiving that the provision in the Constitution did not sufficiently define the manner in which this duty was to be complied with. The matter had been submitted to President Washington, who made it the subject of a special message to the Senate, whereupon an Act providing for the practical enforcement of both Constitutional provisions, was shortly after proposed and passed. With regard to fugitives from labor, it enacted that the owner, or his agent, might seize such fugitive, take him before a United States Judge, or any magistrate of the city, town, or county, where the arrest was made, prove to his satisfaction, by evidence written or oral, that the claim was a just one, and, having obtained his certificate to that effect, carry him back as his slave, without any further proceedings whatever.

The Bill became a law, with little or no opposition in either House, attracting scarce any public attention either in the North or South.

From this time till the year 1807, the history of the subject may be very briefly summed up. Petitions were from time to time received, complaining of the hardships suffered by emancipated negroes in some of the southern States, and praying the interference of Congress to mitigate the horrors of the slave trade. They gave birth to the usual amount of declamation, were in some cases referred to committees, in others either rejected, censured, or suffered to sleep on the table. The two

parties of Federalists and Democrats, into which the nation was divided had long before this, become distinctly marked, every question which was broached assumed more and more a political aspect, and as the power of the Federalists hurried to its fall, the tendency grew constantly stronger in both, to make almost any sacrifice or concession, to win over southern votes. Hence the triumphs of the friends of emancipation were pretty evenly balanced by their losses. Slavery was rapidly disappearing from the northern States and the attempt repeatedly made to introduce it into the territory of Indiana, was as often defeated. But on the other hand South Carolina, after a long interval, again opened her ports to African slavers, and all attempts failed to impose the Constitutional tax upon the importation; while the purchase of Louisiana and the organization of Mississippi, gave additional strength to the South, though the danger of flooding them with slaves through the open ports of South Carolina was in some measure obviated by a special provision which closed these newly acquired territories against any of the recent arrivals.

The long wished for time at length arrived when Congress might constitutionally abolish the slave trade, when the third compromise of the Federal Convention was at length to expire, and the most glaring contradiction in our history was to exist for the future only as a recollection of the past, not as a present and pressing disgrace. All parties were alike resolved to seize the happy occasion. Even South Carolina for a while did not venture to disturb the general unanimity, and resigned herself quietly to her fate. But as the course of Congressional legislation never yet ran smoothly, so here a singular notion was started in Committee by which it was proposed to prohibit the traffic by heavy penalties, and yet at the same time to enrich the National treasury by its proceeds. This extraordinary plan proposed, in short, that all slaves captured in our vessels by the United States cruisers, should be forfeited and sold by the United States into perpetual slavery. Yet a plan so preposterous as this, by which the National Government was to be deeply implicated in a crime which it was the very object of the law to prevent, was triumphantly carried by the violence of the southern members through every stage of legislation to the very verge of final passage.

Happily for the honor of the country the North was at last aroused from her lethargy, and by a desperate effort obtained a recommitment of the bill even at this latest possible moment; the obnoxious clause was altered into a binding out to service for a term of years in the free States, and the bill came up for final action. What possible objection could be taken to a provision which threw almost the whole burthen on the free States, it is hard indeed to discover; but the idea of emancipating an African, no matter under what circumstances, was altogether too much for the equanimity of southern blood. Their members, as Ellsworth would have expressed it, "immediately flew off into a variety of shapes," protesting that they would sacrifice their lives rather than submit to it, and that military force should in vain attempt to force it on them. This meaningless declamation was persisted in on the following day upon some minor parts of the Bill providing for the transportation of slaves by coasting vessels, requiring *manifests* certified by proper officers in order to prevent the obvious danger of deception being practised in this way upon the general Government. The most audacious threats were freely uttered. Randolph, the eccentric member from Virginia, took the lead, gave his singular genius for virulent abuse full scope, and at last concluded by hoping that if the Bill were signed by the President in its present form, not a single southern member would be seen on the floor of the next Congress. The bill was nevertheless signed as it passed, the southern members came back punctually at the opening of the next session, and have with praiseworthy regularity been drawing their eight dollars per day from the National Treasury from that time to this.

With the passage of this great measure the victories of the abolitionists reached their climax. From 1807 up to 1818 their successes were fairly balanced by their reverses. The great acquisitions of new territory during this period were so many triumphs for the South, and the new free States which came into existence were erected in districts into which the slave system had never ventured. The spirit which had supported the friends of humanity in their labors seemed to be gradually decaying. The representatives of free principles in the southern States grew yearly less numerous, while an unaccountable apathy was creeping over the once vigorous and energetic societies of the North. Politicians

took less and less interest in views which, if openly professed, would rob them of many friends, while candidates for National offices took refuge from such dangerous ground in discreet silence or studied ambiguity. Without spending time, therefore, upon the many less important debates that intervened between this and the year 1819 we may pass at once to the memorable one which in that and the following year, threw the whole nation into a state of unparalleled excitement. A few remarks will serve to explain the origin of this new form of the question. In 1787, before the adoption of the Constitution, the old Congress had, by a *unanimous* vote, passed their famous ordinance for the government of the territories of the United States. Among the fundamental conditions of this compact, as it was called, and which was "forever to remain unalterable," except by the mutual consent of both the contracting parties, was an article providing for the perpetual exclusion of slavery from this "virgin soil." The honor of introducing the provision has been since disputed between Virginia and Massachusetts; but be that as it may, its adoption seems to have been a natural effusion from the spirit of freedom which warmed every heart in those days from New Hampshire to Georgia. The subsequent cessions of territory by Georgia and North Carolina, out of which the States of Mississippi and Tennessee were erected, had, however, been guarded by express reservations of the rights of slaveholders, and these reservations were, as we have seen, necessarily respected by Congress. But upon the purchase of Louisiana and Missouri from France in 1803, no such stipulations had been introduced into the Treaty; yet while Congress does not seem to have thought itself at liberty to interfere with the already vested rights of slaveholders in those territories, every possible measure was adopted to prevent the further increase of the race by migration or importation from abroad. Louisiana was admitted almost immediately, passing with scarce any transition from her condition as a French colony to that of an independent American State. With regard to her, therefore, it was thought inexpedient to startle these recently acquired and scarce reconciled citizens, by legislation which they might misconstrue into arbitrary misgovernment taking advantage of their helplessness. In 1802, 1816 and 1818, Ohio, Indiana and Illinois had been successively and quietly admitted under

the terms of the ordinance of '87. The country was thus in a state of perfect repose so far as this question was concerned. All early excitement had died away, a new generation had arisen in Congress, and new intellects were roaming about seeking the material for agitation and display. At this juncture Missouri applied for admission to the Union. A large majority of the Northern members at once decided that they would in all future legislation bind themselves irrevocably to the free principles of the ordinance of '87. Missouri, it was true, had at the time a large number of slaves within her borders, but upon these vested rights as the South was pleased to call them, the North did not propose to encroach. But they contended, that up to the last moment of her territorial existence the paramount authority of Congress over her could not be questioned. The Constitution in providing that "new States may be admitted into the Union," must have intended to allow Congress to exercise some discretionary power in the case, and how could such power possibly be exercised if not by imposing conditions upon the high privilege they were bestowing. Was it to be in the power of any community, no matter how barbarous their laws or how monstrous their social habits, to claim admission into a Union already the hope and admiration of the world, simply upon showing that they numbered the requisite population and had set up a Government which they might choose to call republican? Such a doctrine could never be tolerated in a civilized and Christian society, and never had been acquiesced in heretofore by the general Government. Not a single State had yet been admitted, except upon some conditions or restrictions. And if the general principle were once allowed that the power to impose such restrictions existed, could a case be imagined more urgently demanding its exercise? Were Congress to be called upon at this late day to roll back the tide of legislation which ever since the "immortal ordinance of '87" had been flowing on towards the fulfillment of those bright visions of universal freedom and equality in which the fathers of the revolution had indulged? Could it be, that the southern members, who had uniformly mourned over slavery as the greatest of evils, and had proclaimed again and again that it was a heavy hereditary curse of which their constituents longed to free themselves, could it be that these very statesmen were

seeking to extend this curse, to perpetuate this evil, and fasten upon the growing west an Institution that Washington, Madison and Jefferson had denounced as demoralizing and debilitating?

On the other side, it was argued that the Ordinance of '87 was never intended by its framers to apply to any other territory than that which was actually in the possession of the United States at the time of its passage; that the established habits of the region which was now to be admitted, peremptorily called for the toleration of slavery; that the Constitution did not, and no power could restrain a sovereign State from establishing slavery, or any other institution she chose, in her midst; that any proviso like this, therefore, pretending to control that sovereignty, was an absurdity; that Congress had no power to legislate, except for territories, and by the very act into which this proviso was sought to be introduced, Missouri would cease to be a territory, and claim equal powers with those who now presumed to dictate to her; that as well might the South seek to impose slavery upon Michigan and the uninhabited forests bordering on the great lakes. As to the inhumanity of extending what was acknowledged to be an evil and a curse, it must be remembered that the narrower the boundaries into which slavery was crowded, the more terrible these evils became, and that it was only by widely diffusing it that a hope could be entertained of ameliorating, and perhaps eradicating them. Of course, the usual hints about dissolution, anarchy, and bloodshed, accompanied these arguments. But the question did not confine itself to Congress. The excitement spread rapidly both North and South. The daily press teemed with the proceedings of public meetings, with private remonstrances, and with legislative resolutions. The future condition of an enormous territory, stretching far into the distant West, was supposed to be at stake. No means were spared to rouse the public feeling to the highest possible pitch; dissolution and civil war, with all their ghastly paraphernalia, were paraded before the people through every possible medium; and when, at last, the session closed, and the question still remained unsettled, there were few hearts firm enough to look with untroubled equanimity upon the rapidly gathering storm.

The debate of the following session was still more violent. The wide-spread popular excitement urged on the Representatives

of every section to express, in the angriest terms, the feelings of their constituents. The Senate had repeatedly negatived the restricting proviso, as it was called, and the House as often insisted upon inserting it. At this juncture, Maine applied for admission as a separate and independent State; and as no possible objection could be urged against her, a bill for the purpose passed rapidly through the House, and was sent to the Senate. This happy opportunity for forcing the House into a Compromise was eagerly seized, and an attempt made to saddle the bill with an extraordinary series of amendments providing for the unconditional admission of Missouri. The opponents of slavery in the Senate, though a minority, were, however, a most determined one. But in vain they represented the absurdity of calling this a Compromise, merely because two utterly incongruous measures were strangely crowded into a wholesale bill; and equally in vain, when a separation of the unnatural Union was denied them, did they, for more than a month of anxious debating, struggle to hang their favorite proviso to this already many-tailed monster. The bill, with its amendments, was sent back to the House; but the Representatives had been as busy as their neighbors, and having, by this time, nearly completed a bill of their own on the Missouri claims, the monster of the Senate's creation was, with little ceremony, stripped of all his tails, and sent back again to that august body in his original simplicity. The crisis was now approaching with a vengeance. In vain the bill was tossed back and forward, from House to House; the fourth of March was rapidly approaching, and owing to her peculiar relations to Massachusetts, the fourth of March was the last day upon which Maine could hope for an independent existence. Rumors of secession grew louder and louder, as the hope of an adjustment grew hourly fainter. The people were wound up to the highest pitch of excitement; all other objects were forgotten in the one absorbing question that agitated every heart; and on the morning of the second of March, an earthquake might almost have rolled away unheeded, as at the battle of Thrasymene. All sides began to be seriously alarmed at the possible consequences of their temerity—the majority yielded, as usual; in a few short hours the great Missouri Compromise was passed, the storm died away, the breakers were cleared, the

Union was saved, and the newspapers said that everybody was overjoyed at the happy adjustment. Whether the slaves in Missouri joined in the general jubilee and offered up their thanksgivings for the salvation of the country, does not distinctly appear—possibly, because the slaves of Missouri were not in the habit of expressing their opinions, or offering their worship through the convenient medium of the public press. In substance, the Compromise admitted the new state without the restricting proviso, and prohibited slavery forever in the rest of the purchased territory north of 36° 30′.

For nearly a year, the Union slept in peace, earnestly trying to flatter itself into the conviction, that the "distracting question" was at last put to rest, and obstinately oblivious of an ancient law enacted by Providence long before the foundations of the Union or the earth, either, were laid; and, wherein, it is provided, that of two opposing principles, one must be right, and the other wrong, that no compromise between them, however unanimously voted, can, in the nature of things, be permanent; and that in spite of enthusiastic conventions and full-mouthed Congresses, said compromises will forever tend to change, to decay, and to self-destruction. The operation of this most impracticable law, as modern politicians would term it, suddenly and most disagreeably startled the Union from its comfortable nap. Missouri, after discovering so cheap a path to celebrity, was not disposed to abandon it without further efforts to distinguish her infant name. It was still necessary for her, ere she could take her place in the happy and united family of American States, to frame for herself a Constitution, and present it for the approval of Congress. In this, she made it the duty of her future Legislature to "pass such laws as were necessary to prevent free negroes and mulattoes from coming to and settling in the State, under any pretext whatever."

The constitutionality of this provision, which has since been adopted by several of the Southern States, has never been judicially determined. The clause with which it is thought to conflict, is that which provides, that "the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States." Now, if residence and the right to be protected in acquiring and transmitting property under the laws

be sufficient to constitute citizenship, the free negro population of every Northern State would be entitled to some privileges in the State of Missouri; and, assuredly, when a party is entitled to exercise certain rights within a given territory, it can never be legal to deprive him of those rights, by forbidding him to enter it. And even if these qualifications are insufficient to constitute citizenship, (a theory which would exclude a large proportion of the white population in some of the Southern States,) yet in a few of the free States the right of voting is at present added to them; and in these cases, at least, if the clause be not doomed to remain forever a dead letter, it would seem to find its application. On the other hand, it was urged with great force, that if the Legislature of a State esteem a certain class of population dangerous to its existence, it must be entitled by the first principle of self-preservation—the foundation both of national and individual existence—to exclude them from its midst. The clause in the Constitution cannot mean that every citizen of each State is entitled to become such in every other State. This is notoriously untrue. In some States freehold qualifications are required for voters; in others not. In some there are restraints upon the acquisition of property, which in others do not exist. Where, then, is the line to be drawn between constitutional and unconstitutional differences? Each State may determine the qualifications necessary for its voters—why may not one of them be a peculiar color? Each State may exclude from its borders the professors of particular occupations, which may be distasteful to it, or which it may fancy to be dangerous; why not those who have, at any time, exercised such occupations—which would amount to the same thing as the exclusion of an obnoxious race?

During a long and troubled session, this intricate question was argued both by Congress and the people, with a violence unknown before. Mr. Clay, for a long time, struggled in vain to close the rapidly widening breach. In vain, his famous Committee of Thirteen reported a series of compromising resolutions; both sides were too far advanced to retract, and the platform was angrily rejected. No question, however insignificant, could be taken up, into which these bitter feelings were not dragged; the business of the Nation was wholly suspended, while the contending f[illegible]es hurled harangues of defiance at each others' heads, which

were re-echoed with equal fury from every village in the country. A settlement grew more and more hopeless; and, at last, a formal plan of secession was agreed upon by a minority of the State. The cry of "*Danger to the Union*" has become so hackneyed of late years, as to be treated with contempt by rational men of all parties; but, if ever it had a serious and alarming meaning, it was at the time we are speaking of. Even President making and President greeting, failed to drown the dismal foreboding, that soon all Presidents might be memories of the past. A storm was raised that no one had power to quell; "the spirits had come from the vasty deep," and no magician was found who could charm them back again. At length, by slow and cautious advances, Mr. Clay again approached the troubled circle; increased his Committee to twenty-three, representing all the States of the Union, reasoned with them, exhorted them, entreated them; brought all those wondrously conciliatory talents with which he was gifted, to bear personally upon each member he could reach; and after the most laborious and exhausting efforts, succeeded in passing the Compromise, which, at last, quieted the Missouri question. It consisted substantially in referring the subject to the National Judiciary, to whose province it undoubtedly belonged, and to whose solemn decision the North should, from the beginning, have been content to leave it. That it has never been settled by this high authority, and that we are still unable to answer the apparently simple question—"Who are citizens of the United States?"—is certainly a very singular predicament for a great people to be placed in, but one for which the South are in no way to blame.

The violent sectional feeling, however, to which this discussion had given birth, had sunk too deeply into the hearts of the people to be eradicated by any Compromise. Its baneful effects have been since witnessed in the manner in which every great national question has been debated. We cannot, of course, fill our pages with references to these really irrelevant matters, nor have we space to follow in all its developments, the illiberal policy pursued by Congress with regard to petitions from the North upon this subject. The treatment to which they have been subjected is generally known, and the reasons for and against it too well understood to require rehearsing.

During the fifteen or twenty years following, the feeling against slavery grew constantly stronger in the Northern States, and gradually assumed a more thoroughly organized character. Anti-Slavery Societies were formed in the latter part of this period; the all-powerful machinery of the press was called in to sustain the movement; public discussions on the subject attracted general attention; and all possible means were employed, which the leaders of the party could devise, to propagate their views. The provisions of the Fugitive Law of 1793 began to be, for the first time, severely commented upon. The various laws which different States had passed, with a view to its impartial administration, were strictly scrutinized, and the Act itself denounced as arbitrary and unconstitutional. The State of Pennsylvania, unwilling that the freedom of negroes within her borders should be allowed to depend upon the unassisted judgment of Magistrates of the lowest jurisdiction, passed an Act in 1826 requiring all such cases to be heard before the Judges of the County Courts. In 1842, this law was declared unconstitutional by the Supreme Court, in the celebrated case of Prigg v. the Commonwealth of Pennsylvania. In consequence of this decision, the Legislature passed an Act which had already been adopted in several of the Free States, by which all State Magistrates and Judges were forbidden to take cognizance of cases of fugitive slaves, the jails of the State were closed against the masters, and the whole subject was left to the jurisdiction of Congress, where it properly belonged.

Such was the state of public feeling, when the annexation of Texas and the conquests won from Mexico called upon Congress to legislate for a new and enormous territory. A large portion of the northern members adhered to the platform laid down by them in the struggle of 1819, resolving that nothing should induce them to swerve from the great principle established by the ordinance of 1787. The extraordinary rapidity with which the gold fever peopled California, and her consequent application for admission into the Union, doubled the difficulty; while the toleration of the domestic slave trade in the District of Columbia, the unsettled boundaries of Texas, and the complaints which both parties insisted upon, with regard to the old Act for the recapture of fugitives, were each in itself sufficient to embarrass the

famous Congress of 1850. The men who prepared to meet this swarm of dangers were, probably, superior to any that had ever coped with the question before—veterans in the Cabinet and on the floor—men who had grown grey in watching the Constitution—who had received it in their childhood from its framers, and who had guarded its safety for nearly half a century with almost superstitious love. To review the famous debate which led to that Compromise, which swallowed up all other Compromises, on the broad platform of which all parties have learned to stand, though, perhaps, not very harmoniously, and in the universality of which all minor distinctions are forgotten, would be a lengthy, and is, happily, an unnecessary task. No one, who will read this paper, needs to be reminded of events so recent, and so widely interesting, that every school-boy in the land has thoroughly mastered them and is prepared with a long train of reasoning in their support or condemnation. Our only object has been to show their historical connection with the many measures that have indirectly aided in producing them, and that object, it is hoped, has been partially accomplished.

The success of this measure, time alone can determine. It has lived thus long amid great extremes, both of popular favor and odium. So far as the Fugitive Slave Law is concerned, the severest ordeal through which it has passed, and one in which its practical working has been most fully displayed, is undoubtedly the Trial of Hanway, to a brief history of which the attention of the reader is now invited.

THE TREASON TRIALS.

On the 9th of September, A. D. 1851, Mr. Edward Gorsuch, a citizen of Maryland, residing near Baltimore, appeared before Edward D. Ingraham, Esq., U. S. Commisioner for Philadelphia, and asked for warrants under the Act of Congress of the 18th Sept. 1850, for the arrest of four of his slaves whom he had heard were secreted somewhere in Lancaster County. Warrants were issued forthwith, directed to H. H. Kline, a deputy U. S. Marshal, authorizing him to arrest George Hammond, Joshua Hammond, Nelson Ford, and Noah Buley, persons held to service or labor in the State of Maryland, and bring them before the said Commissioner.

Mr. Gorsuch then made arrangements with John Agin and Thompson Tully, residents of Philadelphia, and police officers, to assist Kline in making the arrests. They were to meet Mr. Gorsuch and some companions at Penningtonville, a small place on the State railroad, about 50 miles from Philadelphia. Kline, with the warrants, left Philadelphia, on the same day about 2 P. M. for West Chester. Here he hired a conveyance and rode on to Gallagherville. Here he hired another conveyance to take him to Penningtonville. Before he had driven very far, the carriage breaking down, he returned to Gallagherville, procured another and started again. Owing to this detention, he was prevented from meeting Mr. Gorsuch and his friends at the appointed time. When he reached Penningtonville, about 2 A. M., on the 10th September, they had gone.

On entering the tavern, the place of rendezvous, he saw a colored man whom he recognized as Samuel Williams, a resident of Philadelphia. To put him off his guard, Kline asked the landlord some questions about horse thieves. Williams replied that he had seen them, and told Kline he had come too late.

Kline then drove on to the Gap. Seeing a person he believed to be Williams following him, he stopped at several taverns along the road to make inquiries about horse thieves. He reached the Gap about 3 A. M., put up the horses and went to bed. At half past four he got up, ate breakfast, and rode to Parksburg, about 45 miles from Philadelphia, on the same railroad. Here he found Agin and Tully asleep in the bar room. He awoke Agin, called him aside, and inquired for Mr. Gorsuch and his party. He was told they had gone to Sadsbury, a small place on the turnpike, four or five miles from Parksburg.

On going there, he found them, about 9 A. M. on the 10th Sept. Kline told them he had seen Agin and Tully, who had determined to return to Philadelphia, and proposed that the whole party should return to Gallagherville. Mr. Gorsuch, however, determined to go to Parksburg instead, to see Agin and Tully, and attempt to persuade them not to return. The rest of the party were to go to Gallagherville, while Kline returned to Downingtown, to see Agin and Tully there, should Mr. Gorsuch fail to meet them at Parksburg. He left Gallagherville about 11 A. M., and met Agin and Tully at Downingtown. Agin said he had seen Mr. Gorsuch, but refused to go back. He promised however to return from Philadelphia in the evening cars. Kline returned to Downingtown, and then met all the party except Mr. Edward Gorsuch, who had remained behind to make the necessary arrangements for procuring a guide to the houses where he had been informed his negroes were to be found.

About 3 P. M., Mr. Edward Gorsuch joined them at Gallagherville, and at 11 P. M. on the night of the 10th Sept., they all went in the cars down to Downingtown, where they waited for the evening train from Philadelphia.

When it arrived, neither Agin nor Tully were to be seen. The rest of the party went up to the Gap, which they reached about half past one on the morning of the 11th Sept. They then continued their journey on foot towards Christiana. The party then consisted of Kline, Edward Gorsuch, Dickinson Gorsuch, his son, Joshua M. Gorsuch, his nephew, Dr. Thomas Peirce, Nicholas T. Hutchings and Nathan Nelson.

After they had proceeded about a mile, they met a man who was represented to be a guide. He is said to have been disguised

in such a way that none of the party could recognize him, and his name is not mentioned in any of the proceedings. It is probable that he was employed by Mr. Edward Gorsuch, and one condition of his services might have been that he should be allowed to use every possible means of concealing his face and name from the rest of the party. Under his conduct, the party went on and soon reached a house in which they were told one of the slaves was to be found. Mr. Gorsuch wished to send part of the company after him, but Kline was unwilling to divide their strength, and they walked on, intending to return that way after making the other arrests.

The guide led them by a circuitous route until they reached the Valley Road near Parker's house, their point of destination. They halted in a lane near by, ate some crackers and cheese provided by one of their number, examined the condition of their fire arms, and consulted upon the plan of the attack. A short walk brought them to the orchard in front of Parker's house, which the guide pointed out and then left them. He had no desire to remain and witness the result of his false information. His disguise and desertion of his employer, are strong circumstances in proof of the fact that he knew he was misleading the party. On the trial of Hanway it was proven by the defence that Nelson Ford was not on the ground until after the sun was up. Joshua Hammond had lived in the vicinity up to the time that a man by the name of Williams had been kidnapped, when he and several others departed, and had not been heard from afterwards. Of the two others, one at least, if the evidence for the prosecution is to be relied upon, was in the house at which the party first halted, so that there could not have been more than one of Mr. Gorsuch's slaves in Parker's house, and of this there is no positive testimony.

It was not daybreak when the party approached the house. They made demand for the slaves, and threatened to shoot them or burn the house down if they would not surrender. At this time, the number of besiegers seems to have been increased, and as many as fifteen are said to have been near the house. By daybreak and before entrance was made into the house, the party was diminished to the original number. When they were advancing a second or third time, they saw a negro going up whom

Mr. Gorsuch thought he recognized as one of his slaves. Kline pursued him with a revolver in his hand, and stumbled over the bars near the house. Some of the company came up before him and found the door open. They entered, and Kline following called for the owner, ordered all to come down, and said he had two warrants for the arrest of Nelson Ford and Joshua Hammond. He was answered that there were no such men in the house. Kline followed by Mr. Gorsuch attempted to go up stairs. They were prevented from ascending by what appears to have been an ordinary *fish gig*. Some of the witnesses described it as "like a pitchfork with blunt prongs," and others were at a loss what to call this, the first weapon used in the contest. A pitchfork any of the party would have recognized, as the most of them were farmers; besides, this is not a weapon usually kept in dwelling houses. This had "four or five prongs" and was probably an old fish gig, which had been stored away for safe keeping. An axe was next thrown down, but hit no one.

Mr. Gorsuch and others then went outside to talk with the negroes at the window. Just at this time Kline fired his pistol up stairs. The warrants were then read outside the house, and demand made upon the landlord. No answer was heard. After a short interval, Kline proposed to withdraw his men, but Mr. Gorsuch refused, and said he would not leave the ground until he had made the arrests. Kline then in a loud voice ordered some one to go to the sheriff and bring a hundred men, thinking, as he afterwards said, this would intimidate them. This threat appears to have had some effect, for the negroes asked time to consider. The party outside agreed to fifteen minutes.

During these scenes at the house, there were occurrences elsewhere which are worthy of attention, but cannot be understood without a short statement of previous facts.

In the month of Sept, 1850, a colored man, known in the neighborhood around Christiana to be free, was seized and carried away by men known to be professional kidnappers, and has never been seen by his family since. In March 1851, in the same neighborhood, under the roof of his employer, during the night, another colored man was tied, gagged, and carried away, marking the road along which he was dragged by his own blood. No authority for this outrage was ever shown, and he has never been

heard from. These and many other acts of a similar kind, had so alarmed the neighborhood that the very name of kidnapper was sufficient to create a panic. The blacks feared for their own safety, and the whites knowing their feelings, were apprehensive that any attempt to repeat these outrages would be the cause of bloodshed. Many good citizens were determined to do all in their power to prevent these lawless depredations, though they were ever ready to submit to any measures sanctioned by legal process. They regretted the existence among them of a body of people liable to such violence; but without combination, had, each for himself, resolved that they would do everything dictated by humanity to resist barbarous oppression.

On the morning in question, a colored man living in the neighborhood, who was passing Parker's house at an early hour, saw the yard full of men. He halted, and was met by a man who presented a pistol at him, and ordered him to leave the place. He went away and hastened over to the store kept by Elijah Lewis, which, like all places of that kind, was probably the headquarters of news in the neighborhood. Mr. Lewis was in the act of opening his store when this man told him that "Parker's house was surrounded by *kidnappers*, who had broken into the house, and *were trying to get him away*." Lewis, not questioning the truth of the statement, repaired immediately to the place. On the way he passed Castner Hanway's house, and telling him what he had heard, asked him to go over to Parker's house. Hanway was in feeble health and unable to undergo the fatigue of walking that distance. He saddled his horse, and reached Parker's during the armistice.

Having no reason to believe he was acting under legal authority, when Kline approached and demanded assistance in making the arrests, Hanway made him no answer. Kline then handed him the warrants, which Hanway examined, saw they appeared genuine, and returned them.

At this time, several colored men, who no doubt had heard the report that kidnappers were about, came up, armed with such weapons as they could suddenly lay hands upon. How many there were on the ground during the affray it is *now* impossible to determine. The witnesses on both sides vary materially in their estimate. Some said they saw a dozen or fifteen; some,

thirty or forty; and others maintained, as many as two or three hundred. It is known there were not two hundred colored men to be found within eight miles of Parker's house, nor half that number within four miles, and it would have been almost impossible to get together even thirty at an hour's notice. It is probable there were about twenty-five, all told, at or near the house from the beginning of the affray until all was quiet again. These the fears of those who afterwards testified to larger numbers, might easily have magnified to fifty or a hundred.

While Kline and Hanway were in conversation, Elijah Lewis came up. Hanway said to him, "Here is the marshal." Lewis asked to see his authority, and Kline handed him one of the warrants. When he saw the signature of the U. S. Commissioner, "he took it for granted that Kline had authority." Kline then ordered Hanway and Lewis to assist in arresting the alleged fugitives. Hanway refused to have anything to do with it. The negroes around these three men seeming disposed to make an attack, Hanway "motioned to them and urged them back." He then "advised Kline that it would be dangerous to attempt making arrests, and that they had better leave." Kline, after saying he would hold them accountable for the negroes, promised to leave, and beckoned two or three times to his men to retire.

The negroes then rushed up, some armed with guns, some with corn-cutters, staves, clubs, others with stones or whatever weapon chance offered. Hanway and Lewis in vain endeavored to restrain them.

Kline leaped the fence, passed through the standing grain in the field, and for a few moments was out of sight. Mr. Gorsuch refused to leave the spot, saying his "property was there, and he would have it or perish in the attempt." The rest of his party endeavored to retreat when they heard the marshal calling to them, but they were too late; the negroes rushed up and the firing began. How many times each party fired, it is impossible to tell. For a few moments, everything was confusion and each attempted to save himself. Nathan Nelson went down the short lane, thence into the woods and towards Penningtonville. Nicholas Hutchings, by direction of Kline, followed Lewis to see where he went. Thomas Pierce and Joshua Gorsuch went down the long lane, pursued by some of the

negroes, caught up with Hanway, and shielding themselves behind his horse, followed him to a run of water near by. Dickinson Gorsuch was with his father near the house. They were both wounded; the father mortally. Dickinson escaped down the lane, where he was met by Kline, who had returned from the woods at the end of the field. Kline rendered him assistance, and went towards Penningtonville for a physician. On his way he met Joshua M. Gorsuch, who was also wounded and delirious. Kline led him over to Penningtonville and placed him on the upward train from Philadelphia. Before this time several persons living in the neighborhood had arrived at Parker's house. Lewis Cooper found D. Gorsuch in the place where Kline had left him, attended by Joseph Scarlett. He placed him in his dearborn, and carried him to the house of Levi Pownall, where he remained till he had sufficiently recovered to return home. Mr. Cooper then returned to Parker's, placed the body of Mr. E. Gorsuch in the same dearborn, and carried it to Christiana. Neither Nelson nor Hutchings rejoined their party, but during the day went by the railroad to Lancaster.

Thus ended an occurrence which has been the theme of conversation throughout the land. Not more than two hours had elapsed from the time demand was first made at Parker's house until the dead body of Edward Gorsuch was carried to Christiana. In that brief time the blood of strangers had been spilled in a sudden affray, an unfortunate man had been killed and two others badly wounded. How many of the negroes were wounded, has never been ascertained. All could not have escaped, but no one has been able to discover who were injured.

When rumor had spread abroad the result of this sad affray, the neighborhood was appalled. The inhabitants of the farm houses and the villages around, unused to scenes of this kind, could not at first believe that it had occurred in their midst. Before midday, exaggerated accounts had reached Philadelphia, and were transmitted by telegraph through the country.

The first information the public received, was that "the negroes had determined to prevent the arrest of the slaves; that about eighty of them, armed with guns, &c., had formed an ambush in the neighboring woods and cornfields, and that when the party arrived in search of the fugitives, they had surrounded them,

and poured upon them a deadly fire, killing Mr. Gorsuch, *mortally* wounding one of his sons, and badly wounding an officer from Baltimore." These were given as "leading facts." The next day's news contained the information that the U. S. Marshal, the U. S. District Attorney, a special Commissioner from Washington city, a company of U. S. Marines, and fifty of the Marshal's police, had gone to the scene of action from the city. It was also announced to be the intention of the U. S. Marshal to "*scour* the neighborhood," and that Judges Grier and Kane (of the U. S. Courts, before whom the case was afterwards tried,) had *decided* the offence of the rioters to be treason against the U. S."

Such statements as these naturally aroused the whole community, and it was not until a few days had developed the exact truth, that public excitement began to subside. Believing the published accounts of the transaction to be correct, a number of the citizens of Philadelphia addressed the following letter to the Chief Executive of the State, who happened then to be in the city, urging upon him prompt action, in what they considered an important crisis:

To the Governor of Pennsylvania:

The undersigned, citizens of Pennsylvania, respectfully represent:

That citizens of a neighboring State have been cruelly assassinated by a band of armed outlaws, at a place not more than three hours' journey distant from the seat of government and from the commercial metropolis of the State.

That this insurrectionary movement, in one of the most populous parts of the State, has been so far successful as to overawe the local ministers of justice, and paralyze the powers of the law.

That your memorialists are not aware that "any military force" has been sent to the seat of the insurrection, or that the civil authority has been strengthened by the adoption of any measure suited to the momentous crisis.

They, therefore, respectfully request the chief executive magistrate of Pennsylvania to take into consideration the necessity of vindicating the outraged laws, and sustaining the dignity of the Commonwealth on this important and melancholy occasion.

John Cadwalader, R. Simpson, John Swift, Thomas McGrath, S. R. Carnahan, Samuel Hays, Geo. H. Martin, A. L. Roumfort, W. Deal, John W. Forney, Isaac Leech, Jr., C. Ingersoll, James Page, Harry Connelly, Frederick McAdams.

The Governor, who, as far as was in his power, had apprized himself of the facts of the case, and had taken the measures which devolved upon him by reason of his office, replied immediately. He knew the danger of inflaming the public mind upon a subject which was then exciting the whole Union. The law had prescribed the proper officers to act in every emergency, and he knew they were upon the alert, with their police force strengthened for the occasion. Whatever might have been the motive for addressing the Governor, the following letter was a full and sufficient answer.

PHILADELPHIA, Sept. 14, 1851.

To Messrs. John Cadwalader, A. L. Roumfort, Jas. Page, C. Ingersoll, Isaac Leech, Jr., R. Simpson, W. Deal, George H. Martin, Samuel Hays, S. R. Carnahan, Thos. McGrath, John Swift, Frederick McAdams:

Gentlemen—Your letter, without date, was this afternoon put into my hands by one of the servants of the hotel. The anxiety which you manifested to maintain the laws of the land and the public peace, is fully appreciated, and I have great pleasure in informing you that, more than twenty-four hours before the receipt of your letter, the parties implicated had been, through the vigilance and decision of the local authorities, arrested, and are now in prison, awaiting an inquiry into their imputed guilt. The District Attorney and Sheriff of Lancaster county, acting in concert with the Attorney-General of the State, deserve especial thanks for their prompt and energetic conduct. This was all done early on Saturday morning, and duly reported to me by the local officers.

The testimony taken by the U. S. Commissioner, who arrived at a later period on the ground, a printed copy of which has accidentally reached me this afternoon, confirms me in the belief that the State authorities had vindicated the law, and, to a large extent, arrested the perpetrators of the crimes.

The cruel murder of a citizen of a neighboring State, accompanied by a gross outrage on the laws of the United States, in the resistance of its processes, has been committed; and you may be assured that so soon as the guilty agents are ascertained, they will be punished to its severest penalty by the law of Pennsylvania. I am very proud that the first steps to detect and arrest these offenders have been taken by Pennsylvania officers.

Permit me, gentlemen, having thus removed all just cause of anxiety from your minds, respectfully to suggest that the idea of rebellion, or "insurrectionary movement" in the county of Lancaster, or anywhere else in this Commonwealth, has no real foundation, and is an offensive imputation on a large body of our fellow citizens. There is no insurrectionary movement in Lancaster county, and there would be no occasion to march a military force there, as you seem to desire, and inflame the public

mind by any such strange exaggeration. I do not wish our brethren of the Union to think that, in any part of this State, resistance to the law goes undetected or unpunished, or that there exists such a sentiment as treason to the Union and the constitution. The alleged murderers of Mr. Gorsuch, whose crime is deep enough without exaggerating it, have been arrested, and will be tried, and they and their abettors be made to answer for what they have done in contravention of the law. But in the meantime, let me invite your co-operation, as citizens of Pennsylvania, not only to see that the law is enforced, but to add to the confidence which we all feel in the judicial tribunals of the land, by abstaining from undue violence of language, and letting the law take its course. Depend upon it, gentlemen, there is in Lancaster county a sense of duty to the laws of the land, manifested in the easy and prompt arrest of these offenders, which will on all occasions show itself in practical obedience.

The people of that county are men of peace and good order, and not easily led aside from the path of duty which the Constitution prescribes. They, and every Pennsylvanian, love the Constitution and the Union. They will detect, as they have done in this case, and arrest and punish all who violate the laws of the land. There is no warrant, depend upon it, for representing the men of Lancaster county as traitors, and participants in an "insurrectionary movement." You do them, unintentionally I have no doubt, great injustice.

I am deeply indebted to you for affording me this opportunity of expressing my views. But for your communication I might not have been able to do so. You, and my fellow-citizens at large, may be assured of my firm determination, at all hazards, and under all circumstances, to maintain the supremacy of the Constitution, and enforce obedience to the laws alike of the United States and of this Commonwealth.

In order that I may be sure that my answer may reach its destination, (your letter having but accidentally come to my hands,) I have requested Mr. White to put it in the hands of Mr. John Cadwalader, whose signature, I observe, is first.

I am, with great respect,
Your obedient servant,
WM. F. JOHNSTON.

The Governor, however, had been misinformed, and was wrong in stating that the murderers of Edward Gorsuch had been arrested. Every man who was in Parker's house, including Parker himself, escaped. As was afterwards proven, not one of the guilty parties was secured. So soon as this was ascertained the following proclamation was issued:

PROCLAMATION.

In and by the authority of the Commonwealth of Pennsylvania, I, William F. Johnston, Governor of said Commonwealth, do hereby issue this

PROCLAMATION.

Whereas, it has been represented to me that a flagrant violation of the public peace has occurred in Lancaster county, involving the murder of Edward Gorsuch, and seriously endangering the lives of other persons; and whereas, it has also been represented to me that some of the participants in this outrage are yet at large; now, therefore, by virtue of the authority in me vested by the Constitution and laws, I, William F. Johnston, Governor of Pennsylvania, do hereby offer a reward of ONE THOUSAND DOLLARS for the arrest and conviction of the person or persons guilty of the murder and violation of the public peace as aforesaid.

SEAL

In testimony whereof, I have hereunto set my hand and affixed the great seal of the State, this fifteenth day of September, in the year of our Lord one thousand eight hundred and fifty-one.

Attest, A. L. RUSSELL,
Secretary of the Commonwealth.

For days after the melancholy tragedy, the vicinity of Christiana was in possession of police officers of different classes and grades. Many of them displayed their vigilance and valor in a way that rendered them ridiculous in the eyes of all, except of those who were the objects of their zeal. Passing by a number of outrages, perpetrated, in the name of justice, by men who were clothed with a little authority, and who delighted in terrifying helpless women and inoffensive children, we have to speak only of those arrests which were made seriously and in good faith, and to tell, so far as there are any records in existence, how the authorities arrested, by wholesale, men who afterwards were found to have been miles from the scene of action.

On the day of the affray it seems that no action was taken at Christiana for the arrest of any parties. All was confusion. The next morning (the 12th of Sept.) Kline went before Joseph D. Pownall, Justice of the Peace of Lancaster County, for the township of Sadsbury, and on oath charged Elijah Lewis, Castner Hanway, John Morgan, Henry Simms, Charles Valentine, Lewis Clarkson, Charles Hunter, Lewis Gales, George Williams, Alson Parnsley, Light Stewart, Hezekiah Clemens, George Wells, Walter Harris, Abraham Clinch, Nelson Carter and Jacob Phillips, with "aiding and abetting in the murder of Edward

Gorsuch on the morning of the 11th September, 1851," and warrants were issued for their arrest. As soon as Lewis and Hanway heard of this, they went over to Christiana and surrendered themselves to the authorities. They and the colored men were carried to Lancaster that night, to await a further hearing before Alderman J. Franklin Reigart, of the city of Lancaster.

The next day (the 13th Sept.) the train from Philadelphia brought up the U. S. District Attorney, J. W. Ashmead; the U. S. Commissioner, E. D. Ingraham; an Attorney who had acted as counsel for Mr. Gorsuch, before he applied to Mr. Ingraham in Philadelphia; a company of Marines from the Navy Yard at Philadelphia; and a number of the Marshal's police.

These, it seems, when reinforced by such volunteers as could be procured from the neighborhood, composed the force by which "the country was to be scoured." They went from house to house with fire-arms in their hands, demanding of the people they met whatever best suited their fancies.

On the same day at Christiana, the Commissioner heard the charges against Joseph Scarlett, Wm. Brown, Ezekiel Thompson, Daniel Clarksbury and Benjamin Pendergrast, and they, with Isaiah Clarkson and Elijah Clark,* were the next day (Sunday) brought to the Moyamensing prison in Philadelphia, "to await their trial at the next term of the Circuit Court upon the charge of having committed treason against the United States."

On the 15th (Monday) the Commissioner resumed his duties, and heard the charges against Henry Green, Wm. Williams, John Halliday, Wm. Brown, (second) George Read, Benjamin Johnson, John Jackson, Thomas Butler, John Clark, Moses Johnson, Jacob Johnson, Emory Elias, Nero Johnson, William Henry Morgan, Aaron Wesley, Daniel Jones, William Jackson, Peter D. Watson and William Chandler. The first eight, in company with Samuel Williams, were on the same day sent to

* How, when, or by whom these men were arrested, does not appear on the transcripts of the docketts of the U. S. Commissioner or of Alderman Reigart. There are several omissions of this kind. The first mention made of several is upon the records of the prison.

Moyamensing. What became of John Clark does not appear. The records of the prison do not show that he was ever there, and the transcript of the Commissioner's dockett does not say he was discharged.

On the 18th September, Collister Wilson was lodged in Moyamensing prison. It does not appear by whom he was committed.

On Sunday morning (the 14th Sept.) the prisoners who had been taken to Lancaster, were again brought before Alderman Reigart, but were remanded until Tuesday the 16th.

Before the 16th, it was thought advisable by those in authority, to change the nature of the charge against the prisoners. They had beeen arrested as offenders against the Commonwealth of Pennsylvania. Now they were to be considered as culprits, to be punished by the laws of the General Government, and were to be accused as traitors. It was probably with a view to prepare for this, that, when they were brought to the appointed place on the 16th, they were again remanded for one week, until Tuesday the 23d of September.

It is generally considered that a man is safe from prison walls until it has appeared to a magistrate that there is probable cause for believing he has committed some offence that should be inquired into by a jury of his country. Such was the common law of England, and many believe it to be the common law of this country. The magistrate has the right, in the exercise of a sound discretion, to detain suspected parties a *reasonable* time, while he hears the charges and decides whether there is necessity for his making a formal commitment. In these extraordinary cases, however, the operation of the law seemed to be inconvenient to those who had its initiatory administration, and the rule was not observed.

Before the appointed time, the company in the prison had been increased. On the 18th September, Jacob Moore was arrested on process issued by Squire Pownall.

The prisoners were brought up to Lancaster County Court House about 10 A. M., and the examination began before Alderman Reigart.

Thomas E. Franklin, Esq., John L. Thompson, Esq., District

Attorney for the County of Lancaster, John W. Ashmead, Esq., District Attorney of the United States for the Eastern District of Pennsylvania, and R. J. Brent, Esq., Attorney General of the Commonwealth of Maryland, appeared as counsel to sustain the charges against the prisoners. On their behalf appeared the Hon. Thaddeus Stevens, George M. Kline, George Ford and O. J. Dickey, Esqrs.

Twelve witnesses were examined on the part of the United States, and about the same number on the part of the defence. After two days deliberation, the Alderman felt it his "duty to commit Castner Hanway, Elijah Lewis, John Morgan, Henry Simms, Jacob Moore, Lewis Clarkson, Charles Hunter, Lewis Gales, George Williams, Alson Parnsley, George Wells, Nelson Carter and Jacob Woods, into the custody of the Marshal of the U. S. for the Eastern District of Pennsylvania, to answer at the next session of the U. S. Circuit Court, the charge of having committed Treason against the United States and aiding and abetting in the murder of Edward Gorsuch, a worthy citizen of the State of Maryland." They were accordingly brought down to the Moyamensing Prison on the 25th of September.

H. Clemens, A. Clinch, W. Harris, J. Phillips, L. Stewart and C. Valentine were discharged, having been detained in prison from the 12th to the 25th of September to await their examination. Jacob Woods, the man last mentioned, does not appear to have been arrested. He was, towards the close of the examination, upon the witness stand, virtually, though not formally, as state's evidence. It appearing that his testimony implicated himself more than any one else, was probably the cause of his detention as prisoner instead of witness.

On Monday the 29th of September, "in consequence of the determination of the District Attorney to send bills to the Grand Jury indicting for Treason those accused of participation in the Christiana riot," Judge Kane charged that body at length upon the law which should govern them in their inquiries. This course was required of the Judge by his duties as a public officer; yet many were surprised that he should have taken as the basis of his charge statements which many persons knew to be purely imaginative.

He stated briefly the occurrences at Parker's house on the morning of the 11th September as he had heard them, and that "it was said that the time and manner of these outrages evinced a combined purpose forcibly to resist and make nugatory a constitutional provision; and in confirmation of this, it is added, that for some months past gatherings of people, strangers as well as citizens, have been held from time to time in the vicinity of the place of the recent outbreak, at which exhortations were made and pledges were interchanged to hold the law for the recovery of fugitive slaves as of no validity, and to defy its execution." Personally, however, the learned Judge said he knew nothing of the facts, and had attempted to preserve his mind free and unprejudiced, being one of the members of the tribunal before which the accused might be tried.

If the circumstances mentioned had taken place, the Judge was correct in saying the highest crime known to the laws of the United States had been committed at Christiana. He cited many authorities, and concluded by stating with what misdemeanors the prisoners could be charged, under the acts of Congress, if the Grand Jury were of opinion that treason had not been committed.

On Friday of the same week (Oct. 13) the Grand Jury returned true bills charging the following men with Treason.

(White). C. Hanway, E. Lewis, J. Scarlett, and James Jackson.

(Colored). J. Moore, G. Reed, B. Johnson, D. Caulsberry, A. Parnsley, W. Brown, (2nd) H. Green, E. Clark, J. Holladay, W. Williams, B. Pendergrast, J. Morgan, E. Thompson, T. Butler, C. Wilson, J. Jackson, W. Brown, J. Clarkson, H. Sims, C. Hunter, L. Gales, P. Woods, L. Clarkson, N. Carter, W. Parker, J. Berry, W. Berry and G. Williams.

One charging George Wells (colored) with the same offence, was ignored.

On the next day, like bills were returned against S. Williams, J, Hammond, H. Curtis, W. Williams, W. Thomas and N. Ferd.

The bill against Noah Buley was ignored.

On the following Monday, the 6th of October, the U. S. Circuit Court, in which the prisoners were to be tried, held its session. The District Attorney moved for a special venire to issue

to the Marshal to summon 108 Jurors, 12 of whom were to be from Lancaster County, "to try the charges against Elijah Lewis and 37 others who had been committed for treason against the United States growing out of the murderous outrage at Christiana." He announced that he would move for the arraignment of the prisoners on the following Thursday, and that the fourth Monday of November had been fixed for the trials. Judge Grier said that such a motion was strictly proper, and he directed the Marshal "to summon men of the highest respectability of character, for intelligence, integrity and conscientiousness, in the community, and to inform them that their attendance will be enforced by the Court, and that no excuse but sickness would be received for non-attendance."

The arraignment did not take place the next Thursday, for reasons best known to the District Attorney. No further public proceedings were had until the trial. In the mean time the Traitors were made as comfortable by the attentions of their friends as the rules of the prison permitted. Though the building was erected at an enormous expense, it is badly ventilated and miserably heated. Yet the rules did not permit any of the prisoners to have fire in their cells, which at that season of the year was absolutely essential to their comfort. Some of them, predisposed to pulmonary complaints, suffered severely on account of this privation. Before the termination of the trial the Court ordered the Marshal to provide more suitable quarters for two of them, representations having been made by their counsel that this precaution was necessary to preserve their health and probably their lives.

On Sunday morning, Nov. 9, about 4 o'clock, two of the witnesses for the prosecution, who had been detained in the Debtors apartment of the Moyamensing Prison, made their escape, by means of the shutters of their cells and their blankets. A white man who was under confinement on another charge went with them.

On Tuesday morning, in the District Court, the District Attorney, after stating the facts, asked for a writ of Habeas Corpus directed to the keeper of the Debtor's apartment, returnable on the following Friday, directing him to bring forth the runaways. On Friday, the keeper asked for more time to make answer, and the following Monday was appointed. On

Monday, it appeared by the statements of some of the counsel for the defence that the truant witnesses were more important for the cause of the prisoners than for the prosecution, and they came into court to complain of the escape as prejudicing their clients. The District Attorney undertook to controvert this position, and argued that because these witnesses were receiving $1.25 per day from the United States while in confinement, more than they could have earned if at liberty, their escape was not their own act and deed. A strange and novel doctrine! Most men, whatever their complexion, would prefer the light and air of heaven at 50 cents per day, to a cell 8 by 12, in a prison notorious for its poor ventilation, at $1.25. This was, however, the only evidence of "assistance from without," which the U. S. Counsel so frequently insinuated, and upon which Mr. Brent, in his official report, rings such doleful changes, charging treachery on the part of some officer *within* the walls of the prison." The public was therefore informed by one official dignitary, that these witnesses were assisted *from without*; another tells us assistance came *from within*.

Leaving out of the question the universal preference for the *outside* of prison walls, there are two circumstances to be considered in relation to this escape, which, when told, the public will be as well able to surmise the truth as any attornies, whether in or out of office. These fugitives were confined as witnesses, not as defendants upon *any* charge. Their friends, or the friends of emancipation, had not the same access to them the law gave to the prisoners. Being detained to testify on behalf of the United States, they were under the strict and especial charge of the government officers.

Besides, the Moyamensing prison is notoriously insecure. Scarcely a month passes by that there are not escapes. The iron bars in the windows of each cell are merely let into the mortar, which a prisoner has only to remove with his knife. The bar can then easily be displaced; and if a little management is used to escape the observation of the keepers, a defendant need not wait for the verdict of a jury to restore him to liberty.

On the investigation of the law relating to the matter, it was found that the keeper of the debtor's apartment was not amen-

able to the United States District Court. The inquiry was accordingly dropped, informally.

On the same morning, at the instance of the District Attorney, it was ordered that the bills against the prisoners be certified to the U. S. Circuit Court, and he announced that Castner Hanway would be tried on the following Monday. John Jackson, it was also said, would be tried immediately after Hanway.

During the week, the preparations made on both sides were conducted in private; but one or two matters that excited some attention were permitted to make their way into the public prints. The entire private history of the difficulty which required the umpirage of the authorities at Washington, would be peculiarly *piquant*. But we have undertaken only an epitome of such matters as were made public, and would be digressing from the course marked out, were we to go "behind the scenes."

It appears that as soon as the preliminary examinations were concluded, and it was determined to try the offenders upon the charge of treason against the United States, intimation was received from Washington by the authorities in Philadelphia, that the Administration desired no pains should be spared in conducting the trials with energy, and in a style worthy the occasion. The learned District Attorney for the United States obeyed these instructions to the very letter. Counsel were retained to assist him. The country was searched to procure the necessary evidence. Arguments were prepared beforehand, and briefs drawn by skilful hands to be used at the proper time. Before these preliminaries were quite concluded, letters were received from the Attorney-General of a neighboring State, which, by their tone, plainly showed that the writer considered himself entitled to the management of the whole matter, and offers, it is said, were made to the authorities here and their colleagues, to take the control of such portions of the trials as this professional usurper chose to assign them? No proposition like this could be entertained. The *dramatis personæ* had all been assigned their parts, and had studied their speeches. The machinery had been adjusted for a certain number of wheels, and more than these would clog the movement. Answer was made that there were no vacancies to be supplied; but if the Attorney-General

chose to be present, some alteration might, perhaps, be made in the programme.

The chief Executive of the State he represented, would not permit his officer to be thus rebuffed. Complaint was formally lodged at Washington, the result of which was, that the whole management of the case was altered. The then Secretary of State wished to *compromise*; and when the District Attorney of the United States for the Eastern District of Pennsylvania arrived from Philadelphia, he was told that the affair was unfortunate indeed, but an alteration was unavoidable. The Attorney-General must be allowed to have his own way; and those who had expended their time and talents in making the proper preparations of the case, were to acknowledge him as their leader.

The effect of this misunderstanding was manifest upon the trial, and to it is solely attributable the fact that, professionally speaking, the management of the prosecution in Hanway's case was, in many respects, a complete blunder. Had the original intentions been pursued to completion, the Bar of Philadelphia would not have been surprised by the imbecile efforts that were made from time to time to bolster up the mistakes and omissions constantly resulting from a misapprehension of both the law and the facts of the case, on the part of those who had assumed its management.

The papers of Saturday, the 22d of November, announced that the trials would begin on Monday, and added, that "Such conveniences as the limited room in which the trials are to take place (would allow) have been prepared; but they are totally inadequate to the occasion, and we shall not be surprised to hear of *hundreds* being disappointed who would like to hear the evidence and the arguments of counsel."

This alone would be a sufficient answer to the absurdity of the statements made by Mr. Brent in his official report, in regard to the favors shown by the Marshal to the male and female members of the Anti-Slavery Society, and to free negroes. The extract is made from "Cummings' Evening Bulletin,"—the authority Mr. Brent cites in support of his allegations. It was penned before the commencement of the trial, and may be considered as the testimony of an unbiassed witness.

If, however, the Governor of Maryland, to whom Mr. Brent's report is made, had taken the trouble to examine the files of the paper in question, he would have found that on the first day of the trial, the reporter says: "Long before the hour arrived for the Court to meet, the seats were occupied by *white* men, and *not a female* made her appearance. We did not see a colored man in the room." In the account of the second day, he says: "A very few members of the Society of Friends were present; and these few were probably the personal friends of Hanway." In the report of the third day, no remark is made about persons present. The reporter, however, says: "The seating of every person who desires to be present cannot, of course, be accomplished." On the fourth day, it is said: "The same absence of colored persons is visible." Throughout the whole trial, no mention is made of colored persons *in the Court room*, except those brought up from prison to be identified by the witness Kline.

The exclusion of "a respectable gentleman from Maryland," one of the witnesses,—mentioned by Mr. B., is not a case of extremity. During the examination of the witnesses who were called to testify to Kline's good character, a gentleman of Philadelphia, a member of the Bar, and consequently an *officer of the Court*, who had been subpœnaed, when called to the stand, before he answered the questions asked him, complained to the Judges that he had been denied admission to the Court room. Towards the close of the trial another member of the Bar complained to the Court of the same thing. In both cases the Marshal was called to account, and justified the conduct of his deputies by saying the room was too small to admit all who desired to be present. The Judge told him to do the best he could, and that all members of the Bar *must* be admitted.

The writer of this went away more than a dozen times because it was impossible to get near the door, and saw hundreds do the same thing. He was personally known to every officer of the Court, and could have gained admission had there been standing room.

Those who wished to hear and see, secured their places betimes. If Mr. Brent had read his favorite authority more closely, he would have seen that the reporter remarks jocosely upon

the perseverance and patience of those who "secured their seats by seven o'clock A. M., and waited till ten for the opening of the Court." Had the "respectable gentleman from Maryland" been out of bed in time, he might have secured a front seat.

On Monday, the twenty-fourth of November, the Trial was commenced at eleven o'clock A. M., in the United States Court room, at Philadelphia. The entire second floor of the building, known as Independence Hall, is leased by the General Government for the sittings of the Circuit and District Courts. The eastern portion, immediately over the room in which Congress held its sessions when Independence was declared, is divided into the offices of the Clerk and Marshal, Jury and Witness rooms, &c. The western portion is the Court room, and is probably one of the most elegantly furnished, for court purposes, in the country. The learned Judge of the District Court takes great pride in having everything about him conducted in the most polished style, and few Courts can boast of more urbane and polite attendants than the Circuit and District Courts of the United States for the Eastern District of Pennsylvania.

For all ordinary purposes, for admiralty causes, the hearing of patent cases, and other business usually transacted in these Courts, the room is sufficiently large. But on occasions attracting much of public attention, great inconvenience is felt by all whose duties compel them to be in attendance; and during the trial of Castner Hanway, as has just been seen, complaints were loud and frequent.

For this occasion the room had been refitted. Gas fixtures of the chastest designs had been erected, in anticipation of evening sessions. Ventilators of the most appropriate patterns had been placed in the ceiling, controlled by cords terminating at the bench of the Judges, so that a uniform temperature could be preserved. Nothing was wanting but space to promote the ease and comfort of those who were to figure in the solemn investigation about to take place.

Long before the appointed hour, the Court room was filled with persons anxious to witness the opening ceremonies. Officers were in attendance to see that the spectators were seated, and no more were admitted than the room would contain comfortably. In the lobbies and on the stair-way, policemen

were stationed to prevent the crowd from rushing up, to allow those to pass who had been called thither by duty, and to preserve order below. For the first ten days they were retained on duty, their number being diminished by degrees until public curiosity had subsided.

At eleven o'clock, Judges Grier and Kane took their seats, and the Court was opened by the usual proclamation. The clerk called the names of one hundred and sixteen persons who had been summoned by the Marshal to attend as Jurors. Among them were some of the oldest and best known citizens of the eastern part of the State of Pennsylvania,—men whose lives were a guaranty that they were above all petty influences and vulgar prejudices,—who could safely take the oath prescribed by law for a juror.

Eighty-one answered to their names. Several of the absent had sent excuses, and nineteen of those present were released either absolutely or temporarily on account of sickness or other causes. Preliminary arrangements were made for reporting the proceedings phonographically for the use of the Court and the counsel. Some conversation was had as to the propriety of restraing the publication of the testimony, &c., of the trial in the newspapers, for fear that, upon a second trial, an unprejudiced panel of jurors could not be found. But no order was made by the Court, and during the whole trial, the papers of this and the adjoining cities contained full accounts of everything that transpired. The District Attorney then gave notice that "as at present advised, he would in the morning move for the arraignment of Castner Hanway,"—and the Court adjourned for the day.

On Tuesday morning, before ten o'clock, the Court room was again filled. After a few more excuses of jurors had been heard, the District Attorney for the United States, moved for the arraignment of the defendant, Castner Hanway. Mr. John M. Read, one of the counsel who afterwards appeared for the prisoner, made some remarks in regard to the informality in the summoning of the panel of jurors, and cited several cases to sustain the objections which he informally made to the whole array. The District Attorney in reply alleged that the return to the *venire* was perfectly proper, but intimated that if the counsel for

defence would move to quash the array, there would be no opposition on the part of the Government. This was the first intimation given to the public that the jurymen returned were unsatisfactory to the prosecution. There had been rumors that the District Attorney himself intended making a motion to quash, but no official dissatisfaction had been previously known. To such a proposition, however, the defendant could not agree. He had been in a felon's cell for more than two months, and his health and strength were fast giving way to the confinement. He and his friends had spared neither pains nor expense to procure the attendance of witnesses, and were as well prepared then for trial as they ever could be. Any panel of impartial men was all he asked, and this he had no reason to doubt were then summoned, as by law, he was entitled to have them. Yet to give the Government as fair an opportunity as its officers desired, another of his counsel, Mr. Thaddeus Stevens, offered to make the motion to quash, on condition that the prisoner be admitted to "*ample* bail," and the trial be ordered to take place in the county of Lancaster. The District Attorney refused to agree to this, and the clerk read to the defendant the Indictment.

This paper, containing five counts, charged him with wickedly and traitorously intending to levy war upon the United States. It embraced the usual amount of legal nonsense, and recited as much of the transactions at Christiana on the morning of the 11th September, as were necessary.

After the reading had concluded, the clerk asked him—

How say you, Castner Hanway, are you guilty or not guilty?

Hanway. Not guilty.

Clerk. How will you be tried?

Hanway. By God and my country.

Clerk. God send you a good deliverance.

The counsel who appeared in his defence were: John M. Read of Philadelphia, Thaddeus Stevens of Lancaster, Jos. J. Lewis of Westchester, Theodore Cuyler of Philadelphia, and W. Arthur Jackson, ditto.

On behalf of the government were present: John W. Ashmead, District Attorney of the United States for the Eastern District of Pennsylvania, Geo. L. Ashmead of Philadelphia,

James R. Ludlow, ditto; and in the phonographic report it is stated that "the State of Maryland was represented by Robert J. Brent, James Cooper and R. M. Lee."

Why such a statement should appear in the only report of the case printed by authority is totally inexplicable. The government of the United States had no right to admit the State of Maryland as a party to the record. If Hanway had offended against any State authority, it was against the State of Pennsylvania. The statement, then, must be a mere *dictum* of the reporter, and the entire array of counsel for the prosecution must have been by *permission* of the United States government.

The counsel for each side having been formally recognized, the clerk proceeded to call a jury. The government submitted a series of six questions, which it was proposed to ask each juryman, touching his competency to be sworn. The first related to conscientious scruples on the subject of capital punishments—the usual question put in capital cases; the second, third, fourth and fifth asked, in different forms, whether the juror had formed an opinion of the case; and the sixth asked his opinion of the Fugitive Slave Law. After remarks from the counsel on both sides, they were amended by the court, but not materially altered. The rest of the day was spent in selecting jurors, and discussing matters which arose from time to time upon their answers to the several questions put to them.

The third day passed in the same way. Minor points were raised by the counsel and decided by the court, but nothing of general interest occurred. It was, however, by this time, evident that the trial would occupy much time, and arrangements for the accommodation of the jury, witnesses, &c., were made accordingly, By three o'clock, eleven jurors had been sworn, as follows:

1. Robert Elliot, Perry county.
2. James Wilson, Adams county.
3. Thomas Connelly, Carbon county.
4. Peter Martin, Lancaster county.
5. Robert Smith, Adams county.
6. William R. Saddler, Adams county.
7. James N. Hopkins, Lancaster county.
8. John Junkin, Perry county.

9. Solomon Newman, Pike county.
10. Jonathan Wainwright, Philadelphia county.
11. Ephraim Fenton, Montgomery county.

The 12th, James Cowden, Lancaster county, was called but not sworn at the time. The Court had determined to adjourn over till Friday, Thursday being the day appointed by the Governor of Pennsylvania as Thanksgiving day. As the rule of law would have required the jury to remain together, after the panel was complete, until a verdict was rendered or they were discharged by the court, for their comfort, Mr. Cowden was not sworn. They were allowed to separate, and his Honor, Judge Kane, informed them that apartments had been provided for them at the American Hotel, immediately opposite the court-house, where he would advise them to remove their wardrobe during the interval.

On Friday morning, names of the witnesses for the Government were called, the twelfth Juror was sworn and the Court was ready to proceed with the trial.

It was known that the defendant was to be tried for Treason, but how the acts he committed were to be construed into this grave offence was a mystery which now was about to be developed. He was to see the witnesses face to face, and hear them testify in regard to the occurrences at Christiana. Public expectation was anxiously awaiting the developments for the first time about to be made. Vague rumors were to give place to proof, and a precedent to be established that would settle many perplexing questions which had arisen from sectional interpretations of the Fugitive Slave Law of 1850.

Mr. Ashmead, the District Attorney, opened the cause in a speech about an hour and a half long. Relying on information he had received from the lips of witnesses examined in private, he committed the common error of stating that some things would be testified to, which were only heard of in these opening remarks. He rehearsed the indictments, gave a short account of the occurrences at Parker's house, spoke of its being the result of a combination of which he had evidence, and concluded by explaining to the Jury the law of Treason, quoting at large from the books. His remarks were given to the public through the press, and being the first authentic publication from the trial,

were generally read. It created the impression that Hanway was guilty as he stood indicted—no one doubting that witnesses would prove the exact statements made by the cautious District Attorney.

When Mr. Ashmead had concluded his remarks, Z. Collins Lee, Esq., the U. S. District Attorney for the District of Maryland, appeared, and was recognized as one of the counsel for the Government. The array of counsel for the prosecution then comprised one U. S. Senator, one Attorney General of a sovereign State, two U. S. District Attornies, one Recorder of the city of Philadelphia and two members of the Philadelphia Bar, who boasted of no official position. With such a combination it was confidently expected that, as a matter of practice, aside from the issues to be tried, the management of this cause would be a model which the profession would be safe in imitating.

After proving the appointment of Mr. E. D. Ingraham as Commissioner of the United States, Mr. Ingraham was called and testified to the issuing of the warrants for the arrest of Noah Buley, Nelson Ford, Joshua Hammond and George Hammond.

At this stage of the case Mr. J. M. Read asked that the witnesses for the prosecution be kept out of the Court-Room during the progress of the trial. Mr. Ashmead asked for the same order as regarded the witnesses for the defendant. The Court, admitting the propriety of both requests, granted them, and directed the Marshal to provide suitable accommodations. There being no objection on the part of the defence, the Rev. Mr. Gorsuch, who had been subpœnaed for the proof of some collateral matter, was allowed to remain.

Drafts of Parker's house and the fields around it were presented, and their accuracy proven.

Henry H. Kline, the Deputy Marshal, who had attempted to make the arrests, was next called. It was known that he was the "leading witness" on the part of the prosecution. He had been the leader of the U. S. forces in this contest; had taken an active part in having the neighborhood of Christiana placed under arrest; had declared martial law there; and had been the principal witness at the examinations in Christiana and Lancaster. His testimony was naturally looked for with some interest, as well by those who knew the character of the man, as by those

who had then heard of him for the first time. His evidence is contained in 33 printed pages of the report published under the auspices of the Court,—more than one tenth of the whole work. It is not our purpose to speak of it at length; we have already spoken of the facts as they occurred. The portion of his testimony bearing most upon the cause, was his statement of the interview with Hanway and Lewis at the bars. The jury were informed of the *truth* of this matter before the trial was concluded, by other witnesses.

During the examination of Kline the question of identity of those present at the transaction came up, and the most of those prisoners whom he had called by name were ordered to be brought up to Court on the next (Saturday) morning. It is this which gives Mr. Brent the offence of which he so loudly complains in his printed report (p. 5) of the trial to Gov. Lowe. He comments on the dress of the negroes, the manner in which they had combed their hair, their position in the crowded court room, and of the conduct of the officers having charge of the prisoners who thus gave them "aid and comfort."

In his zeal, Mr. Brent probably forgets what he must have learned in his instructor's office, that the Law presumes every man innocent, and requires that he shall be treated with every possible attention to his personal comfort, while confined in prison awaiting trial upon any charge. He certainly must remember the sumptuous mode of living allowed to Dr. Webster in Boston, to the Knapps when charged with instigating the murder of their uncle, and many other similar cases well known to every Tyro in the profession.

Besides this presumption of law, the friends of every prisoner must have free access to him until conviction. The jailer is only responsible for his appearance at the proper time, and may permit him any priviledges, save liberty, to which he is entitled as a free man. When these negroes were brought to the prison, from Lancaster, they were dressed in their summer clothing. Their wives and children were too poor to come to Philadelphia to attend to their comforts. It is a strange cause of complaint that they found persons humane enough to furnish them with proper garments. A moment's reflection would see the reason why "their comforts and their clothes should be, in every re-

spect, alike." The supply was probably furnished from the *same* store, at the *same* time, and for the *same* purpose. Instead of being a reproach, it is an honor to our city, that persons were found who were unwilling to permit these creatures to suffer for the want of those comforts which are not furnished at the public expense; and were Mr. Brent better acquainted with our citizens, he would see the same thing done in many other cases, in which humanity could not be construed into "bullying and bravado" of such a Government as that of which we are all proud.

On the morning on which the prisoners were brought into Court, Mr. Read represented to the Court the effect confinement had on Hanway's health; and the Court instructed the Marshal, that when thus suffering, the authorities had "no right, if he can be safely kept otherwise, to keep him in a manner injurious to his health. If the Marshal can give this prisoner better lodging, feeling certain he can keep him safely, we have no objection to any indulgence of that nature, and direct the Marshal to grant it to him."

After Kline had concluded, Dr. Thomas Peirce was called. His testimony embraces about thirteen pages of the paper book. He repeated substantially the evidence of the Marshal. Mr. J. M. Gorsuch was next called. His story was clear and consistent throughout. Mr. Dickinson Gorsuch followed him. These two gentlemen being one a nephew, the other a son of Mr. Edward Gorsuch, were not cross-examined by the defence. Messrs. H. Hutchings and N. Nelson were next called.

These witnesses had all accompanied Kline to Parker's house, and testified to the occurrences there. The remainder were called to prove what transpired after the attempt to make the arrests had been abandoned, or to other circumstances deemed necessary by the prosecution to make out their case. After Miller and John Nott had been examined, the Court adjourned.

On Monday morning, after the excuses of several jurymen had been heard, and an order made for the alleviation of the condition of Collister Wilson, one of the prisoners awaiting trial, the cause was resumed by recalling Miller and John Nott. The array of counsel had, on Saturday, neglected to elicit something that had been, "upon consultation," deemed of importance. The examination was resumed, and continued at length upon

minor points, until the Court, at the instance of defendant's counsel, stopped the repetition.

Alderman Reigart and Wm. Proudfoot, constable of Sadsbury township, testified to the conduct of Hanway and Lewis, when bullied by Kline at the house of Frederick Zerker, where they had surrendered themselves to the officers. The object of this was to show, that their silence was tantamount to a confession. Alderman Reigart testified to having come down from Lancaster with a *posse* of one hundred and fifty men to make arrests.

Charles Smith was offered for the purpose of proving that notice of the intended arrest had been given to Hanway and others, by Samuel Williams. The evidence was objected to, the question argued at length, and the objection overruled by the Court. Smith then testified merely to the fact, that Williams had given notice to him, but did not know the same had been given to Hanway.

Dr. Cain testified to nearly the same facts, and, in addition, to his attendance upon an annual meeting of the Anti-Slavery Society of Pennsylvania, in West Chester, some time previously. This was the only attempt made to sustain the allegations of the opening speech of the District Attorney, in regard to combination for the purpose of resisting the Fugitive Slave Law. Two colored men, John Roberts and Samuel Hanson, were next placed upon the stand. Towards the end of Hanson's testimony, a discussion arose upon a point of evidence, in which Messrs. Brent and Read took part. Their remarks were diverted somewhat from the purpose; and Mr. Brent took occasion to explain his position in the case, though, at that time, his position had not been assailed. He asserted his right arose by reason of an invitation from the Federal authorities, though, he said, he came by authority of the Executive of Maryland. Altogether, his attempt to define his position totally failed; and the public would have understood the matter quite as well, if, according to the rule, no answer had been made to the concluding remarks of the defendant's counsel.

Jacob Wood testified that Elijah Lewis had called him from his work that morning, telling him that kidnappers were at Parker's house. Mr. D. Gorsuch then identified the coat his father wore

on the morning of the attempt to arrest; and to the surprise of every one, the case of the United States was announced to be concluded.

Seldom do there occur like discrepancies between an opening speech and evidence offered to sustain it. Those observers who, relying upon the loose statements of the public journals, really believed treason had been committed, and, without any personal feeling towards the particular defendants, hoped for a conviction, were sadly disappointed. The general public were astonished that so much smoke had arisen from so small a fire, and wondered what could be the reason. While the friends of Hanway and his colleagues, knowing from the first the exact truth, were gratified that the *denouement* was in precise conformity with what they had foreseen *must* be the result of this mockery of justice.

The Court adjourned earlier than usual, both to give counsel an opportunity of consultation, and to await the return of Messrs. Cooper and Stevens, who were absent at Washington, where they had gone to be present at the opening of the thirty-second Congress.

The next morning, Tuesday, Mr. Cuyler opened for the defence. After expressing his surprise at the insufficiency of the testimony offered to prove what had been threatened, he commented on the strange and unprecedented array of counsel in the case for the Government. He spoke of the fidelity of the State of Pennsylvania to the Constitution, and for himself and colleagues endorsed the eulogistic remarks of the opposite side, upon the value of the Union. The defendant, he said, did not come to justify the transactions at Christiana, but to say that "he was in no way a party to those outrages." He was a native of Delaware, had, at five years of age, removed with his father to Chester county, Pa. After living there for several years he had resided in Maryland, and afterwards in one of the Western States. About three years previous to the trial he had returned to Chester county, and in 1850 married and settled in Lancaster county, near Christiana. Mr. Cuyler then mentioned two cases of kidnapping which had occurred in Lancaster county, and spoke of the natural feeling in the neighborhood in regard to such outrages. He then detailed the occurrences of the morning of the eleventh of September, stated that it would be proved that Han-

way had been told there were "kidnapper's at Parker's house," that it was this which carried him there; that it was owing to his and Lewis' exertions that more blood was not shed; and that, by throwing himself between the negroes and their pursuers, Hanway had saved the life of Dr. Thomas Peirce. He then stated that he would show by "ample proof the notorious bad name of Kline for truth;" and closed his remarks with his view of the Law of Treason, quoting at length from many acknowledged authorities.

Thomas Pennington was then called, to testify to the "kidnapping and carrying away of colored persons, in the neighborhood of the Gap, within the last year."

The testimony was objected to, and a long argument ensued. The Court ruled that it was important, as bearing upon the question of intention, and must be admitted. The witness then stated, that in January, 1851, just after nightfall, two men entered his house, presented a pistol at the head of a colored man, who lived with him, and threatened to blow his brains out if he resisted. Other men followed, bound the black man, dragged him off, placed him in a carriage, in waiting, and hurried him away. Henry Ray, Rachel Chamberlin and Miller Pennington testified to the same facts.

Elijah Lewis was next called to the stand. In the absence of Mr. Ashmead, who it appeared had determined to object to the witness, Mr. Brent made the objections, on the ground that he was interested in the issue of the trial,—i. e. if his testimony should procure an acquittal of Hanway, would this not enure to the acquittal of Lewis on the joint indictments against them, as Hanway could not be tried a second time? The objection was overruled by the Court, and the witness admitted. He was then carefully examined and cross-examined, and gave an account of the transaction, from the time he was first told that "there were kidnappers at Parker's house," until he delivered himself into custody.

Henry Burt, who lived with Castner Hanway during September, 1851, was next called. He testified to Lewis' having told Hanway that there were kidnappers at Parker's house. While Hanway was eating his breakfast, he saddled the horse. After the affray he saw Kline, and had some conversation with him.

Jacob Whitson testified that Kline, three days after the riot, came to his father's house in search of Parker, who he said had shot Edward Gorsuch.

When the Court sat the next morning, Mr. R. M. Lee, considering himself misrepresented by Mr. Cuyler, in his remarks the day previous, explained the position he occupied in the case. The subject of counsel seemed to be a painful one to most of the gentlemen engaged on the part of the prosecution, and no opportunity was lost to explain to the public the relative position occupied by each. Mr. Cuyler, of course, when he heard that "the gentleman did not occupy the position of a volunteer, withdrew his remarks."

Thompson Loughead was then examined as to the occurrences of the morning; Samuel H. Laughlin as to conversations with Kline; Isaac Rogers, who lived within a few hundred yards of Parker's house, as to the occurrences of the morning; and John C. Dickinson in relation to conversations with Dr. T. G. Pierce, after the transaction. Dr. Patterson and J. G. Henderson also testified to statements made by Dr. Pierce in relation to the occurrences of the morning.

Hon. W. D. Kelly, one of the Associate Judges of the Court of Common Pleas, for the City and County of Philadelphia; Francis Jobson, (collector of water rents,) Wm. D. Francke, Daniel Evans, (fire-proof chest maker,) Isaiah G. Stratton, Wm. Stroud, (officer in the Custom House,) Jacob Walker, John Hinkle, Norman Ackley, (constable,) Anthony Hoover, Aaron B. Fithian, Geo. K. Wise, John Mackey, Andrew Redheffer, John McEwen, Thomas Liston, William Hopkins, James Smith, William Nutt, John Manderson, Jacob Glassmire, John Dittus, Joseph Parker, Charles H. Roberts,* testified that they knew Henry H. Kline. They were citizens of Philadelphia, and some of them had been acquainted with him for twelve or fourteen years. When asked the question prescribed by law, "What is his general character for truth and veracity?" the answer uniformly was, "It is bad," or words to that effect. Some, and among these Judge Kelly, when asked, "Would you believe him on his oath?" answered,

* The occupation of these witnesses is mentioned when given in the report of the trial.

"That would depend on circumstances;" some answered positively "no," and others so qualified their answers as to show their belief that his testimony should be received cautiously.

John Carr, a blacksmith, who lived four or five miles from Parker's, testified that on the night of the 10th of September, between eight and nine o'clock, he followed Harvey Scott (one of the colored men whom Kline swore he saw at Parker's) up stairs to bed, in the garret of his house, and buttoned the door after him; the next morning (the 11th) he unbuttoned the same door, called him down, saw him immediately go about his daily employment, and had him employed that day in his shop. John S. Cochran, who also lived with John Carr, testified to substantially the same facts.

Lewis Cooper was examined as to the transactions of the morning of the 11th, after the riot. He carried from the ground, in his dearborn, the wounded Dickinson Gorsuch, and the body of Edward Gorsuch. He testified to some conversations with several witnesses, and that he was one of the neighbors who accompanied the corpse to Maryland.

John Houston was called, and testified that about the time of the riot there was a party of men at work on the railroad near Christiana, who were called to work in the morning by a bugle; and to some other immaterial matters.

Enoch Harlan, Joseph M. Thompson, George Mitchell, Levi Wayne Thompson, Andrew Mitchell, Wharton Pennock, Samuel Pennock, John Bernard, Calvin Russell, Isaac Walton, James Coates, Ellis P. Irvin, Geo. W. Irwin, testified that they knew the defendant Hanway, some of them having known him from boyhood. They all represented him as an "orderly, quiet, well-disposed and peaceable citizen."

With this the testimony on the part of the defendant closed. They had proven all they promised—the notoriously bad character of Kline for truth and veracity, the good character of Hanway, the acts of kidnapping, and such other circumstances as repelled the presumption of combination: but most important of all, the fact that Hanway went suddenly to Parker's house, upon information that there were kidnappers around it, to prevent if possible the recurrence of such scenes as had more than once appalled the neighborhood; that when shown the legal

authority of the officer, he was going away, and only delayed his departure from the ground to use his exertions in preventing bloodshed.

The prosecution, in turn, offered rebutting testimony. Mr. G. L. Ashmead, in his opening remarks, offered to sustain the character of Kline, which, it seems, was thought to have been somewhat damaged by the attack made upon it; to prove (if the attendance of witnesses could be procured) that the seizure from the house of Chamberlain was not a case of kidnapping; that in September, 1850, armed bands of negroes paraded the "streets of Lancaster" (city) in search of slave-hunters; that in April, 1851, a Mr. Samuel Worthington had been prevented from making arrest of an alleged fugitive from labor, in the vicinity of Christiana; to contradict some witnesses who had related conversations with Kline; to prove that Harvey Scott was at Parker's house, by the testimony of Scott himself; to prove that after the riot Kline had acted as a good officer; and that sundry meetings had been held in Lancaster county in favor of the "higher law."

E. G. Wood, (police officer,) James Buckley, (Lieutenant of city police,) John Hence, Samuel Goldy, Peter Keller, (an ex-police officer,) Charles Worrell, (innkeeper,) William McDaniels, (tax collector,) Wm. B. Rankin, (attorney,) Alderman Brazier, Thomas Stainroop, John S. Keyser, (marshal of police,) Jacob Weightman, (bar-tender,) John Gamble, (police officer,) John Millward, W. W. Weeks, Andrew Flick, (constable,) F. M. Adams, (attorney,) C. B. F. O'Neill, (do.) Aaron Green, James Barber, (constable,) James Brown, Sr., (innkeeper,) John H. Moore, (police officer,) Daniel Weyman, Thomas Connell, John Martin, Robert L. Curry, E. J. Charnley, (clerk,) D. A. Davis, (interpreter,) D. L. Wilson, (carriage driver,) Jacob Dulther, John McElroy, (clerk,) J. W. Stanroop, Egbert Summerdyke, Nathan Lucans, Lafayette Stainroop, Thomas Downing, W. D. Haylett, D. D. Emerick, D. W. Rickafus, James Pidgeon, Albert G. Stevens, James Brown, Jr., David Vicely, W. L. Gray, John Selets, Henry Cornish, Samuel Babb, Thomas Wallace, John C. Lamb, Wm. Ray, (innkeeper,) Joseph A. Nunes, (attorney,) Joseph Abrams, (attorney,) Michael Barr, (innkeeper,) W. W. Hankinson, Charles H. Lex, Thomas E. Connell, Jr., J. L.

Thomas, (attorney,) William Connell, (gas-fitter,) Joseph S. Brewster, (attorney,) E. E. Pettit, (do.) Wm. E. Lehman, (do.,) Dr. Vondersmith, Alderman White, Charles P. Buckingham, Phillip Winnemore, J. C. Smith, George Carter, J. P. Loughead, (attorney,) were called to support Kline's character. Many of them said, they had heard his character called in question, but that they would believe him on his oath.

William Noble was next called, to prove that "in the month of September, 1851, the county of Lancaster, and particularly the neighborhood of Christiana, was patrolled by armed bodies of negroes, after a report that slaveholders had come up there for slaves. That these armed bands of negroes went from house to house, in that neighborhood, searching for the slaveholders, swearing vengeance against them, and expressing a determination to kill them."

The object of this was to sustain the allegation of combination—the gist of the entire case, in the proof of which the prosecution had so signally failed.

To this extraordinary offer, Mr. Read, on behalf of the defence, objected on several grounds. The evidence was in chief, and not rebutting testimony. It was the bounden duty of the prosecution, as well by the rules of evidence as in mercy to the defendants, to have offered it before the close of their case. Besides this, the Act of Congress requires that the United States shall furnish, three days before a trial for treason, the names of those witnesses whom they intend to examine touching the charges against the prisoner.

Mr. G. L. Ashmead and Mr. Brent both replied, asserting that the existence of this testimony was not known to them at the commencement of the trial; and arguing that this was rebutting testimony; they could find no part of the defendant's case which it could be considered as rebutting, except the opening remarks of counsel.

Both members of the Court decided the evidence offered to be in chief, and sustained the objections of Mr. Read.

Samuel Worthington was next offered, to prove that some time in 1851, he and a party of men went to the neighborhood of Christiana, in search of a fugitive slave, and stopped at the house of a man by the name of Haines; that "immediately the

same signals were given at that house as at Parker's;" and to show by this that "the motive which actuated Hanway and others was not of a lawful and legal character, but of a treasonable and criminal kind."

The same objections were made as before to Noble's testimony, and the defence again expressed their disapprobation of giving evidence to rebut lawyers' speeches.

The Court overruled the offer, on the same grounds as had rejected Noble's testimony, and the witness was withdrawn.

Cist Cockney was next examined, to contradict Jacob Whitson, who had testified in regard to conversations of Kline. John Bacon testified to a difficulty between Kline and some officers at Christiana.

Harvey Scott was called "to prove that the testimony given by Carr and others—the alibi—is not correct; that he was on the ground, and to explain how he got out of the room and proceeded to the scene of action." After some conversation the question was asked, "Were you at the battle on the morning of the 11th September last?"

Answer. "I gave my evidence that I was there, once. I was frightened at the time I was taken up, and I said I was there, but I was not."

Question. Were you there on the morning of the 11th September last?

Answer. I was proved to be there, but I was not there.

Question. On the morning of the 11th September last?

Answer. No sir. Kline swore I was there, and at the time I was taken up I told the man I was not there; and they took me to Christiana, and I was frightened, and I didn't know what to say, and I said what they told me."

The witness was not cross-examined, but, after a threat to prosecute for perjury, was discharged.

The next morning (Dec. 2) an informal conversation took place in regard to the evidence of Scott. In answer to all the imputations of tampering, made by the prosecution and others, it is sufficient to say, that from the time of his arrest till the examination on the first of December, he was confined in the debtors' apartment of the Moyamensing Prison, in custody of the U. S. officers, and beyond the reach of any person, except such

as went there on behalf of the prosecution. Like all liars, when left to himself and his own reflections, he concluded it was best to tell the whole truth, especially when this exculpated him from the difficulty into which his own folly and weakness had plunged him. It had been proved, beyond a doubt, that Scott was *not* within three miles of Parker's house on the morning of the 11th, and his declarations made that morning to witnesses who were examined, proved that he was capable of telling the truth, when uninfluenced by fear. As soon as arrested, he was threatened with imprisonment and death; but at first he told a consistent story. Soon the coward's hope induced him to make false statements. Ignorant, and not gifted with the ordinary intelligence belonging to persons of his condition in life, he knew not the nature and obligation of an oath, and swore as he believed would be acceptable to those whom he supposed to have power over his liberty, and perhaps his life. From the time of the preliminary examinations until brought upon the stand, he was in the care and keeping of the agents of the prosecution; and, as appears by the statements made at the time of his examination, he had been visited in his cell, after the testimony for the prosecution had closed, by some of the counsel for the prosecution, and there told the story which they believed he would repeat under oath. They had their manifest reasons for not calling upon him to give evidence in chief, since they did not dare to do so, even in rebuttal, till he had been visited in prison, and the probable nature of his testimony ascertained!

It was also said, that the day before his examination "he was conversed with by several negroes, in the Marshal's office, who had to be sent away from him." This may account for his finally telling the truth. It is certain, that in such a place no one had an opportunity of quite so full a conversation with him as could have been held in his cell at Moyamensing prison. But the *sight* of his former comrades was sufficient to compel him to exercise even the small amount of conscience which nature had bestowed upon him. But if it were granted, for the sake of argument, that "some negroes" had a conversation with him, by what rule of right or principle of law, could they be condemned for entreating the unhappy man not to degrade himself by committing the loathsome crime of perjury? Mr. Brent's pamphlet

implies the existence of such a code of morals; but if it exist at all, its influence must be confined to the borders of the State he represented.

Dr. Pearce was recalled, to refute the charges of cowardice, which it was said he had, in conversation, made against Kline; and Dickinson Gorsuch, to testify that he saw two of his father's slaves at Parker's house.

With this the examination of witnesses closed. Nothing was wanting to complete the trial but the arguments of counsel, the charge of the Judge and the verdict. Those who had attentively watched the testimony, plainly saw that the attempt to sustain the charge of Treason was a failure. The counsel for the prosecution, if rumor is to be depended upon, had for several days abandoned all hopes of a conviction. There were many persons, however, who believed the jury would not be able to agree upon a verdict. Public excitement had subsided, and towards the close of the examination of witnesses, the court room comfortably seated all who chose to assemble to hear the proceedings. The desire to hear the speeches again drew a crowd, and expectation was raised to the highest pitch in regard to one of the counsel, who, when his turn came, considered that it was not necessary for the interest of his client to occupy the time of the Court.

After some preliminary arrangements, Mr. Ludlow began his remarks to the jury and occupied the remainder of the day. He commenced by hastily repeating the part Hanway had taken in the transactions of the morning of the 11th of September. Then citing the 3d Section of Article III of the Constitution of the United States, and the decisions of all courts upon it, argued that the acts committed came within the provisions of the Law. He said that "taking the whole transaction together, this man Hanway, if guilty at all, is guilty by virtue of his presence upon the ground and joining with the conspirators, the whole transaction being the overt act." His conduct, Mr. L., thought, was not that of an innocent man; but that it confirmed the hypothesis of guilty intent before going to Parker's. The conflict of testimony to this point, must, he thought, be decided in favor of the Government's witnesses. Elijah Lewis's evidence, he told the Jury, must be weighed with the utmost caution. Without attributing perjury to him, it was suggested "that he would shape his course,

so as to swear his friend who was the leader, he being the lieutenant, out of the difficulty, and his friend would come and swear him out in turn."

The alleged case of kidnapping, he said, was committed by a party of imprudent Southerners, who, under the decision of the Supreme Court in Prigg's case, had taken the law in their own hands and carried their slave away without process. He argued, too, that Hanway's good character could not avail him in such a prosecution. The testimony in regard to Kline's bad character was, he thought, the result of opposition to the Fugitive Slave Law, and was more than met by the witnesses who had been produced in rebuttal. He then defended Kline from the imputation of cowardice, which it appeared rested upon him, from his conduct at Parker's house, and contended he had acted as a good officer and brave man. Mr. L. then pointed out and attempted to reconcile to the Jury some discrepancies in the evidence, and concluded by some eloquent remarks upon the value and importance of the Union.

The next morning, (Saturday December 6th,) before the argument was resumed, Mr. Brent called the attention of the court to an article in a paper called the Pennsylvania Freeman. It contained an account of the serving up of a dinner for the prisoners on Thanksgiving day, and stated that the Marshal had participated with them. After some rather severe remarks from the Bench upon the character of the paper, the Marshal made an explanation of the matter with which Mr. Brent expressed himself perfectly satisfied.

Whatever may have been the object of presenting the subject to the Court at that time, whether to "give a public officer an opportunity of offering a public explanation," or for any other purpose, it certainly had the effect of casting odium upon the prisoner at the bar. It was extraneous matter and as such should have been withheld till the conclusion of the trial. But when offered, the defence did not choose to exercise their right to object, not wishing to prejudice the defendant by any act which, on the part of illiberal counsel, might be called a disposition to stifle a full and fair investigation, of what (had not its folly and absurdity been made public) might, by *inuendo* and such other tricks, have been handled before the Jury in a manner prejudical to the defendant.

Mr. Lewis then began his remarks in behalf of the defence. He deprecated, in strong terms, the whole prosecution, and alleged it had been commenced in a moment of excitement and public phrenzy. Had a little time been allowed for reflection, for inquiry into the facts, to ascertain Castner Hanway's character, this issue would never have been presented to this jury. He suggested that the whole proceeding had taken this course at the instigation of the authorities of a neighboring State. The people of Pennsylvania did not deserve such treatment. They had always been loyal, and no better evidence of this is needed than the course and character of their legislation. Mr. Lewis then hastily rehearsed the different acts of Assembly upon the subject, mentioning the objects and purposes of each, and in some cases their private history. From these it appeared that the State of Pennsylvania had ever attempted to establish two points: "To provide a means for the recovery of fugitives within her borders, and to protect her own free black population. The first she did from comity, the last from duty." The course of Maryland, had, he remarked, been uniformly the opposite of this. She had treated the free black subjects of Pennsylvania with habitual harshness and severity. After further comments upon the relative course of the two States, and asserting the right of every citizen of Pennsylvania, to interpose his influence when injury to her people or violence to her laws is threatened, he repeated the remark made by one of his colleagues that no one deprecated the unfortunate occurrences on the morning of the 11th more than Castner Hanway, and that neither he nor his counsel came there to justify, excuse, or palliate them. In their management of the defence they had desired to obtain not only justice to the living, but to observe a due respect to the memory of the dead, and a regard for the lacerated feelings of those who were bound by near ties to the unfortunate murdered man. The Messrs. Gorsuch had not been asked a question in cross examination, but were permitted to tell their story as witnesses in their own way.

He then referred to the case of alleged kidnapping at Chamberlain's, and the feeling in the neighborhood which grew out of it. While this feeling existed, Kline, after having spent a day and two nights in the neighborhood, hanging about taverns and ex-

hibiting himself abroad at unusual hours, made his descent upon the family of Parker under cover of the night. The whole affair had a kidnapping aspect. The persons that saw this company of armed men surrounding this house of a negro supposed to be free, and held at bay by those within, might well suspect them to be kidnappers." He reviewed carefully the whole evidence, and by the circumstances proven, argued the absence of combination, which must be sustained by two witnesses. Every act of Hanway's could be explained and was explained by attributing to him humane and philanthropic motives. Any other construction was forced and unsupported by testimony. "Instead of being guilty of treason, there is no reasonable ground for imputing even impropriety to him. Never indeed was such a prosecution founded upon evidence so meagre, or such a charge seriously made, that would be so foolish if it were not that the subject is so serious." Mr. L. then commented upon the law of treason, and in a masterly argument occupying seven pages of the printed report, fully elucidated to the jury the legal theory on the subject.

Mr. Brent followed Mr. Lewis. He began his remarks by reference to the oft-mooted question of counsel for the prosecution. He and Mr. Cooper were there by authority of the general Government, and he complained of the statements which had been made in the public prints and elsewhere of the difficulties which had arisen in their own camp. He said "there was an unfortunate question of etiquette between the learned gentleman (Mr. J. W. Ashmead,) and myself (Mr. Brent,) which upon my arrival in the city was fairly and honorably adjusted between us."

The State of Maryland could not take the reports of the trials from the public newspapers. This man might be acquitted honorably, yet *she* would not know it or *believe* it, and his duty was to inform the citizens of Maryland officially of what had taken place. They did not, as had been stated, thirst for blood; and he complained at length of the insults that had been offered him and his State, by those counsel for the defence, who had animadverted upon the extraordinary array of counsel for the prosecution. He then, "before discussing the legal merits of the question at issue, attempted to depict the condition of the South," and went into an elaborate history of the Fugitive Slave

Law, with an enumeration of the rights and privileges guarantied by its provisions to slaveholders. After this, he spoke of the Union, and the duties of each citizen towards his Government.

He then passed to what he called, "the powerful combination of crushing testimony (corroborating Kline in every particular,)" and promised to prove from it that Hanway "did then and there connect himself with an organized band, which had been formed for treason." He argued that "there was overwhelming circumstantial evidence to demonstrate Hanway's implication in the previous conspiracy." There was no direct proof, nor was it expected this could be brought "from a region the whole of which is infected, and where every white man in that immediate neighborhood, (with the exception of Miller Nott) *is leagued with the traitors.*" From Hanway's presence, his silence, and all he was proved to have done, Mr. B. added it "was passing human credulity to say that you cannot infer in all this, a feeling of hostility to the law, and an intention to resist it."*

The hour for adjournment having arrived, Mr. Brent suspended his remarks.

On Monday morning (Dec. 8th,) at the usual hour, he resumed by answering the comments Mr. Lewis had made upon the laws of Maryland, in relation to free colored persons coming into that State; and spoke of the evils that would result from a dissolution of the Union, and the execration in which those persons should be held who preached treason in the streets and from the pulpits.

He expressed surprise that Hanway's wife had been permitted to remain by his side during the trial, and warned the Jury not to be moved by her tears. "There are other strange things," he continued, "that have occurred in the progress of this trial," and he mentioned the escape of prisoners, and the refusal of Harvey Scott to commit perjury a third time. The conduct of Elijah Lewis, Joseph Scarlet, Hanway, Dr. Kane and Lewis Cooper, on the day of the attack on Parker's house, was next reviewed, in the severest terms; and then, after speaking of the evidence, he justified the conduct of Kline. He defended the Southern States

* Here the printed report ends. The remainder has not yet been published. The conclusion of Mr. Brent's speech, Mr. Read's, Mr. Cooper's, and Judge Grier's charge, are taken from memory and from the daily papers published at the time.

from the charge of cruelty towards slaves, and enumerated some of the laws upon the subject.

The law of Treason was next considered, and he presented his views at length to the Jury. In conclusion, he repeated that the "State of Maryland did not thirst for innocent blood. She thirsted only for the pure undefiled fountains of Justice. She stood there for her rights, and stood undaunted."

Mr. Read, the senior counsel for the defence, followed in an elaborate and searching argument. No part of the case was left untouched. The only report of his remarks to which we have access, is very meagre, not as full as that of the latter part of Mr. Brent's speech. He alluded in opening to the monstrous doctrine that the Constitution allowed a master the right of seizing his slave wherever found, without even offering to establish his identity, as had been alleged to be the Law by those who had commented upon the case of kidnapping from Chamberlain's house. Prosecutions and abuse for not sanctioning such outrages as these, were equivalent to saying, "if you do not turn negro catcher, we will indict you for treason."

He continued with a rapid and striking sketch of English history, throughout the period from which the cases relied upon by the prosecution had been selected,—reviewing it reign by reign, showing with great force the barbarous and tyrannical character of the times, whose principles it was attempted to write into the Constitution of America in the nineteenth century. Having laid this general foundation, he proceeded to discuss at length each particular case that had been cited; and not confining himself to the mere face of the report, he searched out the facts from an array of collateral authorities, such as was probably never before submitted to any Court in any State trial, exhibiting the state of parties, the influences at work upon the Bench and the Juries, the character of the Judges, and the real value which ought to be attached to their decisions. Coming down to the later periods of English Jurisprudence, he insisted that even their Courts had abandoned these principles, and would not now listen to the authorities which the prosecution had attempted to enforce in Republican America; and showed conclusively that at the present day in England, no man could be convicted of treason in levying war, unless an open insurrection or rebellion were actually raging

in the land, and aiming at the change or destruction of the Government. Passing next to the American decisions, he argued, that stripped of the improper phraseology in which some of them had been clothed, they established the same doctrine, and that when this phraseology appeared to cover wider grounds, it had been derived from earlier English cases, which at the time of making the decisions were supposed by our Judges to be the actually existing law of England, our lawyers then not having the means of exposing their utter worthlessness.

Having established the general rule above stated as the result of the decisions now in force, Mr. Read passed to an analysis of the facts of the case; showing in the first place how utterly preposterous was the attempt to dignify this miserable riot with the name of insurrection and rebellion, and that looking at it in its true light, Hanway was not and could not have been a participator. The only overt act he committed, consisted in giving insolent replies to Kline, and the evidence of this was wholly uncorroborated, depending entirely on Kline's credibility. "A man morally and physically deaf, comes here and says he heard the defendant *whisper* to the colored men the words, 'shoot at them.' A perjured man who don't hear and can't hear, is brought into this court to convict an innocent man, whose hands are white—not red with the blood of his fellow man."

From the contradictions in Kline's own testimony, and the opposing evidence, both of the government and the defence, he showed beyond a doubt the perjury of this essential witness; that he was not and could not have been near the bars at the time of the firing, but almost half a mile away in the woods. As this single point was absolutely fatal to the case of the prosecution, he thought it useless to expend time on minor and immaterial details.

After reviewing the testimony of the prosecution, he passed to that of the defence, and showed wherein it supplied the defects of the Government's case. He commented upon the conduct of Harvey Scott, "who had been tutored to tell a story, and who was frightened into it by Marshal Kline."

The unfortunate termination of the attempt to arrest the slaves of Mr. Gorsuch, was owing to the imbecile and foolish conduct of Kline. "He had prowled up and down a peaceful country,

drinking and carousing, and blustering about horse thieves, until all the slaves had notice of his coming. Had the Chief Marshal of this Court been sent, instead of this prating villain, all the slaves within reach might have been arrested without loss of blood."

The conclusion of his remarks, was an interesting summary of the laws enacted in the Southern States for the government of the slaves, exhibiting at length their real position, and the real relations existing between them and their masters.

The object of this concluding part of his argument, was to show that a riot, which in a free State was a mere temporary ebullition, might in the South be a matter of much more serious moment, intimately affecting the lives and property of the masters; but that we could not be required to transplant Southern notions, resulting from a peculiar institution, into Northern law and Northern Courts.

We have never seen a miscellaneous audience listen with such earnest attention to a purely legal argument, as did the concourse that thronged the Court room, to the strictly technical part of Mr. Read's speech.

After Mr. Read had concluded, according to the arrangements agreed upon, Mr. Stevens was to speak. Many persons had assembled to hear his remarks, and public expectation had been excited to an unusual degree. The disappointment was general, when he announced that he thought the case had been so fully and ably argued, on the part of the defence, that his duty to the defendant did not require him to add anything to what had already been said.

Mr. Cooper closed the case for the Government.* In the portion of it reported, he reviews the testimony of both sides, and presented his interpretation of the contested points to the jury, answering some of the arguments made by gentlemen for the defence. The time at which his remarks were made compelled him to go over much ground a second time. He concluded by giving his views of the law of treason.

The abstract of the remarks of the different gentlemen engaged

* The report of this gentleman's remarks is very meagre. The conclusion of his argument is totally omitted in the papers, to give place to Judge Grier's charge.

in the cause, is necessarily very crude and imperfect. No attempt has been made to give anything more than a hasty analysis of those parts of each speech that pertained to the case.

His Honor Judge Grier charged the jury, at length, upon the law which should govern them in coming to a verdict.

The consideration of the case, he said, had occupied much time, but not more than the importance of the issue, both as respects the interests of the public, and duty to the prisoner necessarily required. The Court had given ample time and opportunity for the investigation of the law and the facts bearing on the case,—not only because it is the first of a numerous list of cases, of the same description, which involve the issue of life and death to the parties immediately concerned, but because we know the public eye is fixed upon us, and demands the unprejudiced and impartial performance of the solemn duties we are called upon to execute. The public and the prisoner have a right to demand of you a firm, a fearless, and an unflinching performance of your duty, and that the verdict you shall render shall be a *true* verdict, according to the evidence which you have heard, and the law as explained to you by the Court.

After some general remarks, not material to the point at issue, he read the important parts of the indictment, the truth of whose allegations the jury had been sworn to try.

The learned Judge then called attention to the facts in the case that were undisputed. After these he added, "Two questions present themselves for your inquiry:

"1. Was the defendant, Castner Hanway, a participant in the offences proved to have been committed? Did he aid, abet, or assist the negroes in this transaction, without regard to the grade or description of the offence committed?

"2. And secondly, if he did, was the offence treason against the United States, as alleged in the bill of indictment?

"The first of these questions is one wholly of fact, and for your decision alone. The last is a mixed question of law and fact. On the law you have a right to look to the Court for a correct definition of what constitutes treason, but whether the defendant has committed an offence which comes within that category, is, of course, a matter of fact for your decision."

"In the present case the defendant was present, as proved by several witnesses, and not denied. Did he come to aid, abet, and

countenance or encourage the rioters? If so, he was guilty of every act committed by any individual engaged in the riot—whether it amounts to felony or treason. There is no evidence of any previous connexion of the prisoner with this party, before the time the offence was committed; that he counselled, advised, or exhorted the negroes to come together with arms, and resist the officer of the law, or murder his assistants. His acts, his declarations, and his conduct are fair subjects for your careful examination, in order to judge of his intentions or his guilty complicity with those whose hands perpetrated the offence. If he came there without any knowledge of what was about to take place, and took no part, by encouraging, countenancing or aiding the perpetrators of the offence,—if he merely stood neutral, through fear of bodily harm, or because he was conscientiously scrupulous about assisting to arrest a fugitive from labor, and therefore merely refused to interfere, while he did not aid or encourage the offenders, he may not have acted the part of a good citizen, he may be liable to punishment for such neutrality, by fine and imprisonment, but he cannot be said to be liable as a principal in the riot, murder and treason committed by the others—and much more so if his only interference was to preserve the lives of the officer and his assistants."

If you should find that the defendant did *not* aid, abet or assist in the perpetration of the offence, you will return a verdict of not guilty, without regard to the grade of the offence, whether riot, murder or treason.

But if you should find that he has so aided and abetted, so as thereby to become a principal according to the rules of law, you will next have to inquire whether the offence, as proved, amounts to "Treason against the United States."

This is defined by the Constitution itself. Congress has no power to enlarge, restrain, construe, or define the offence. By this instrument it is declared, "Treason against the U. S. shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort."

What constitutes "levying war against the Government" is a question which has been a subject of much discussion.

"The term 'levying war,'" says Chief Justice Marshall, "is not for the first time applied to treason by the Constitution of

the U. S. It is a technical term. It is used in a very old statute of that country whose language is our language, and whose laws form the substratum of our laws. It is scarcely conceivable that the term was not employed by the framers of our Constitution, in the sense which has been affixed to it by those from whom we borrowed it."

Since the adoption of the Constitution, but few cases of indictment for treason have occurred, and most of those not many years afterwards. Many of the English cases *then* considered good law and quoted by the best text writers as authorities, have since been discredited, if not overruled in that country. The better opinion then seems to be, that the term "levying war," should be confined to insurrections and rebellions, for the purpose of overturning the government by force and arms. Many of the cases of constructive treason quoted by Foster, Hale, and other writers, would perhaps now be treated merely as aggravated riots or felonies.

But for the purposes of the present case, it is not necessary to look beyond the cases decided in our own country.

After quoting several American authorities, he continued. "The resistance to the execution of a law of the United States, accompanied with any degree of force, if for a *private purpose*, is not treason. To constitute that offence, the object of the resistance must be of a public and general nature.

In the application of these principles to the case before us, the Jury will observe that the levying of war against the United States is not necessarily to be judged of alone, by the number or array of troops. But there must be a conspiracy to resist by force, and an actual resistance by force of arms, or intimidation by numbers. This conspiracy and the insurrection connected with it, must be to effect something of a *public nature*, to overthrow the government, or to nullify some law of the United States, and totally to hinder its execution or compel its repeal.

Without desiring to invade the prerogatives of the Jury in judging of the facts of this case, the Court feel bound to say that they do not think the transaction with which the prisoner is charged with being connected, rises to the dignity of treason, or a levying of war. Not because the numbers or force was insufficient, but

1st. For want of any proof of previous conspiracy to make a *general* and *public resistance to any law* of the United States.

2d. There is no evidence that any person connected in the transaction, knew there were such acts of Congress, as those which they are charged with conspiring to resist by force and arms, or had any other intention than to protect one another from what they termed kidnappers.

The testimony of the *prosecution* shows that notice had been given that certain fugitives were pursued; and that the riot, insurrection, tumult, or whatever you may call it, was but a sudden "conclamatio," or running together to prevent the capture of certain of their friends, or conspirators, or to rescue them if arrested.

He concluded by some general remarks upon the enormity of the offence committed against the State government, and the part which had been taken in the whole transaction; by the States of Maryland and Pennsylvania, and the General Government.*

The Jury having heard the charge, retired to deliberate. They returned in about *ten minutes*, and rendered a verdict of NOT GUILTY.

After the verdict had been rendered and the Jury discharged, the District Attorney said, that the prisoner was charged on four other bills of indictment for misdemeanor. On these he proposed to move for a *nolle prosequi*, and said that if the State of Pennsylvania did not hold him to answer any other charges, he would move for his discharge.

Judge Grier said that, on motion of the District Attorney, the defendant was discharged, and Hanway left the Court room a free man—after an imprisonment of four months wanting a day.

* It is to a review of this able charge that Mr. Brent devotes more than half his pamphlet. He attempts to controvert many of the positions, and argues at length that many of them are not sound law. The character of the learned Judge for ability, and a profound knowledge of the law, is too firmly established to render a defence of his reasonings anything but a work of supererogation. It is enough to know that the charge was thought a *sound* one by many legal gentlemen of Philadelphia, who took no other than a professional view of it. Mr. Brent's differences may have resulted from a foregone conclusion.

The next day, (Friday Dec. 12th,) after a long conversation, Elijah Lewis and Samuel Williams were admitted to bail in the sum of $2000 each, and several bills against some of the prisoners were *nol pros'd*, on the motion of the District Attorney.

On the following Wednesday, (Dec. 17th,) the Court met again for the purpose of taking some action in reference to the remainder of the prisoners, who were charged with treason. The District Attorney said that inasmuch as the charge of Judge Grier to the jury in the case Hanway, clearly convinced him that, upon the evidence, the charge of treason could not be sustained, he had determined to enter a *nolle prosequi* upon the remainder of the bills. He thought, however, that a clear case of murder and riot had been made out, for which the prisoners were amenable to the State authorities, and he had communicated with the authorities at Lancaster upon the subject. In reply, the District Attorney of Lancaster county had informed him, that detainers had been lodged at the Moyamensing prison by virtue of which they would be carried to Lancaster, by the U. S. authorities. He therefore moved that the U. S. Marshal be directed to remove the prisoners to Lancaster at his leisure, there to await the action of a Grand and Petit Jury of that county. Mr. Ashmead further said, that he would lodge detainers against the prisoners with the authorities of Lancaster, in order that they might be tried in the U. S. Courts in Philadelphia for misdemeanor, should they by any possibility escape punishment in Lancaster. He was determined to do his whole duty in the case, and if these men were to go unpunished, it should not be through neglect on his part.

The Court then made the order as required, and Judge Kane discharged the jurors from further attendance.

Mr. Read then asked for an order from the Court for the payment of the defendant's witnesses, and cited the case of Aaron Burr in support of the request. The District Attorney asked that a time be fixed for argument upon the matter, and the Court named Friday as the day on which they would consider the motion. The argument was heard as appointed, and the Court refused to make the order.

Those in authority had determined, as has been seen, to abandon the prosecution for treason. To avoid the imputation

of imbecility, it was resolved to attempt a conviction upon the charge of misdemeanor under the Fugitive Slave Law of 1850. So much noise had been made about the grade of crime committed at Christiana, that it was not expedient to permit the matter to leave the U. S. Courts after the verdict of "not guilty" in Hanway's case.

Accordingly, Samuel Williams was detained for trial in Philadelphia, while his partners in crime were removed to Lancaster to await the action of the State authorities. His principal offence was not such as made him amenable to the State of Pennsylvania, it not being charged that he was ever at Parker's house.

Sufficient breathing time having elapsed after the trial of Hanway, William's case was called on Monday, January 5, 1852, in the District Court, before Judge Kane. All parties not being ready for trial, a postponement of one week was ordered.

On Monday, the 12th of January, the prisoner was arraigned on two bills, one charging him with interfering to prevent the arrest of Noah Buley, the other with interfering to prevent the arrest of Joshua Hammond. To both of these charges he plead not guilty.

On the part of the prosecution G. L. Ashmead, Esq., James R. Ludlow, Esq., and John W. Ashmead, U. S. District Attorney, appeared; and R. P. Kane, Esq., W. S. Pierce, Esq., and D. P. Brown, Esq., appeared in behalf of the defendant.

After some, delay the following jury was empannelled: Pratt Roberts, Chester Co.; Thomas Vaughn, Philadelphia County; Henry McMahen, Philadelphia city; Patrick McBride, Philadelphia Co.; Michael Keenan, do.; Frederick Boley, Sr., do.; Joseph Dowden, Chester Co.; Samuel Culp, Germantown; Minshall Painter, Delaware Co.; Joseph Thornton, Philadelphia Co.; Francis Parke, Chester Co.; and Peter M'Conomy, Lancaster.

Mr. G. L. Ashmead opened the case to the jury by stating what evidence would be presented to them, and his view of the law of the case. In this, as in the trial for treason, Kline was the principal witness against the defendant, and the most

of the evidence offered was a repetition of that in Hanway's case.

After several postponements on account of the illness of the presiding Judge, the case was resumed on Monday, February 2d. The defence relied upon, was the deficiencies in the evidence for the Government, and the uniform good character of the defendant. After able argument, the case was given to the jury on Wednesday, February 4th. On Thursday they returned a verdict of "*not guilty.*"

In the meantime the State authorities had been proceeding in the matter. On Monday Jan. 12, 1852, the Lancaster County Court of Oyer and Terminer and Quarter Sessions, met at Lancaster city. On Thursday the 15th, the District Attorney of Lancaster sent up to the Grand Jury a number of bills charging Castner Hanway, E. Lewis, J. Scarlett, and the other defendants in the treason cases, (some of whom were in prison, not having been able to procure the bail required,) with riot and the murder of Edward Gorsuch. The next day, about one P. M. the bills were returned to Court, all IGNORED. That afternoon those "Traitors" in prison were released, and the bonds of those on bail were cancelled.

Thus ended the prosecutions growing out of the Christiana riot. The great mistake made in the whole proceeding, from first to last, was, that those men who might perhaps have been indicted with some show of justice, for riot, though not for treason, *were never arrested.* The outrage was committed on the 11th of September, before five o'clock A. M. The oath of Kline before Joseph D. Pownall, upon which the warrants were issued for the arrest of the guilty parties, was not made until more than twenty-eight hours afterwards. From that time the most unrelenting vigilance was observed, and the neighborhood virtually placed under martial law. But measures were taken too late. Only those men remained within the reach of tardy justice who *felt* and *knew* they were guilty of no crime. The rest preferred flight to dangerous delay.

When time and opportunity permit, guilty men *will* avoid the penalty imposed by law, whether the crime be treason, murder, riot or larceny; and active, energetic officers usually pursue

before the modern facilities for travelling have carried a criminal beyond their reach.

Those in authority are often compelled to rely upon the representations of their subordinates, and in this case the rumors which at first started the public and the braggadocio telegraphic dispatches, *probably* led the higher officers of justice to suppose that the guilty had been secured. The array of soldiery, the special police force detailed from Philadelphia, and the levy of extemporaneous troops from the neighborhood, *certainly* induced the uninitiated public to believe that the net had been properly cast. But when drawn ashore it was found to contain a few persons who had been led to the scene of action from the best and most philanthropic motives, some of whom, instead of "levying war against their native country," or "aiding and abetting in the murder of Edward Gorsuch," had bravely interposed between the infuriated blacks and their assailants, and by their conduct saved the lives of the remaining companions of this unfortunate stranger;—men who, instead of a felon's cell, shattered health, and the total wreck of their worldly prospects, merited the thanks of all who would spare the shedding of innocent blood.

Before the first flourish of the first trumpets had died away, those whose positions afterwards required them to conduct the prosecutions had gone too far to retract. The false and distorted statements which had found their way into the public prints, before the real truth had been ascertained, were republished and believed throughout the country; and the Quixottic expedition of U. S. troops and their impromptu associates in Lancaster county were thought by many, as well in the State of Pennsylvania as at a distance, to have been undertaken against a dangerous and resolute host of genuine traitors. The affair happening upon the eve of a popular election in our own State, and at a time when the "fire eating" party in the South was exerting its utmost to disseminate discord and dissatisfaction, furnished ambitious and unprincipled men with fuel for the flames they were striving to kindle. What wonder then if the timid and uninformed at first foresaw in this first alarm a conflagration that was to devastate the whole country?

To allay public excitement it was necessary to prove *publicly* that these exaggerated reports of traitorous combinations were

merely the result of vain boasting and a desire for notoriety on the part of a few silly men, who had not wit enough to foresee the lamentable consequences of abusing the authority with which they had been imprudently entrusted. Whether the course pursued to gain this end was the most judicious, is somewhat questionable, though it seems to have been sanctioned by the very *highest* authority in the country. The parties implicated by the miserable management of those who took the initiative measures, had rights, and, though the prerogatives of office gave the *power*, it is doubtful whether a due regard to the public welfare justified the Federal authorities in imprisoning for months innocent men, subjecting them and their friends to the inconvenience and expense of such investigations.

To prove to the nation that its bungling agents had arrested the wrong men, cost the Government nearly Fifty Thousand Dollars. It excited between the authorities of neighboring States bitter animosities and unjust recriminations, where before had existed the best feeling and undisturbed harmony. It, for a time at least, inflamed sectional prejudices and caused renewed agitation of a question whose difficulties the greatest men of the nation had for years been striving to adjust peaceably. It cost the parties who were to be subjected to this ordeal, their liberty for months, the total abandonment, and, in some cases, the utter ruin of their business; to a few the loss of health, to all the entire privation, until the trial, of those comforts and sources of enjoyment upon which we are all so much dependent for happiness, and an expenditure of money in preparing for their defence that some were totally unable to meet, and that robbed a few of the entire earnings of industry and frugality. It cost their families many bitter tears and hours of anguish, depriving them for a protracted and severe winter of their natural protectors, upon whose exertions many of them were dependant for daily sustenance.

To compensate for this enormous public and private expenditure of money—for the fearful, but, to public sympathy, the disregarded days of agony which took the place of happy and peaceful hours—and for this useless agitation throughout the nation, there resulted not the slightest benefit, immediate or remote, to

any individual, save to a few of those who were engaged professionally in these cases.

There rests somewhere a fearful responsibility. This ill-timed attempt to punish with public hatred and infamy, or with fine and imprisonment, perhaps death, the innocent instead of the guilty, was the result either of a pitiable desire for unenviable notoriety, or of a culpable and unpardonable negligence on the part of those who were the sources of the movement. For either cause, no excuse can be offered before any tribunal.